

Exhibit A

(Part 1)

2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

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IN RE: VEECO INSTRUMENTS, INC.

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SECURITIES LITIGATION

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10 DEPOSITION of STEELWORKERS PENSION FUND, by
11 RICHARD S. HOFFMAN, taken pursuant to Notice, held
12 at the offices of Berger & Montague, P.C., 1622
13 Locust Street, Philadelphia, Pennsylvania, on
14 December 8, 2005, at 9:57 a.m., before a Notary
15 Public of the State of New York.

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23 BARRISTER REPORTING SERVICE, INC.

120 Broadway

24 New York, N.Y. 10271

212-732-8066

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| <p style="text-align: right;">2</p> <p>1</p> <p>2 APPEARANCES:</p> <p>3</p> <p>4 BERGER & MONTAGUE, P.C.</p> <p>Attorneys for STEELWORKERS</p> <p>5 PENSION FUND</p> <p>1622 Locust Street</p> <p>6 Philadelphia, PA 19103</p> <p>7 BY: ARTHUR STOCK, ESQ.</p> <p>-and-</p> <p>8 PHYLLIS PARKER, ESQ.</p> <p>9</p> <p>10</p> <p>11 GIBSON, DUNN & CRUTCHER, LLP</p> <p>Attorneys for VEECO</p> <p>12 INSTRUMENTS, INC.</p> <p>200 Park Avenue</p> <p>13 New York, New York 10166-1093</p> <p>14 BY: ROSS WALLIN, ESQ.</p> <p>15</p> <p>16</p> <p>17</p> <p>18 xxxxx</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">4</p> <p>1</p> <p>2 RICHARD S. HOFFMAN,</p> <p>3 having been first duly sworn before a</p> <p>4 Notary Public of the State of New York,</p> <p>5 was examined and testified as follows:</p> <p>6</p> <p>7 EXAMINATION BY</p> <p>8 MR. WALLIN:</p> <p>9 Q What is your name?</p> <p>10 A Richard S. Hoffman.</p> <p>11 Q What is your address?</p> <p>12 A 7 Neshamoney Interplex, Suite 301,</p> <p>13 Trevose, Pennsylvania 19053.</p> <p>14 Q Good morning, Mr. Hoffman. My name is</p> <p>15 Ross Wallin. I'm with the firm of Gibson</p> <p>16 Dunn & Crutcher. We represent VEECO</p> <p>17 Instruments as well as the individual</p> <p>18 defendants in the VEECO Instruments</p> <p>19 securities litigation.</p> <p>20 I'm going to be asking you some</p> <p>21 questions for a couple of hours this morning.</p> <p>22 If I ask you any questions that you don't</p> <p>23 understand, I want you to let me know and</p> <p>24 I'll decide based on what you tell me whether</p> <p>25 I feel like I need to rephrase the question.</p> |
| <p style="text-align: right;">3</p> <p>1</p> <p>2 STIPULATIONS</p> <p>3</p> <p>4 IT IS HEREBY STIPULATED AND AGREED by and</p> <p>5 between the attorneys for the respective parties</p> <p>6 herein, that filing, sealing and certification,</p> <p>7 and the same are, hereby waived.</p> <p>8</p> <p>9 IT IS FURTHER STIPULATED AND AGREED that</p> <p>10 all objections except as to the form of the</p> <p>11 question, shall be reserved to the time of the</p> <p>12 trial.</p> <p>13</p> <p>14 IT IS FURTHER STIPULATED AND AGREED that</p> <p>15 the within deposition may be signed and sworn to</p> <p>16 by an officer authorized to administer an oath,</p> <p>17 with the same force and effect as if signed and</p> <p>18 sworn to before the Court.</p> <p>19</p> <p>20</p> <p>21 xxxxx</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">5</p> <p>1 Hoffman</p> <p>2 But if you don't indicate that you don't</p> <p>3 understand the question, then I'm going to</p> <p>4 assume that you do understand it and I'm</p> <p>5 going to look to you for an answer.</p> <p>6 If at any point in time you want to</p> <p>7 take a break, just let me know. This is not</p> <p>8 intended to be uncomfortable, so if you need</p> <p>9 to use the restroom, let me know. I'll</p> <p>10 probably just as a matter of course try to</p> <p>11 take a break every hour or so just for my own</p> <p>12 benefit.</p> <p>13 Have you ever been deposed before?</p> <p>14 A Yes.</p> <p>15 Q How many occasions?</p> <p>16 A Oh, I would say under twenty. That's</p> <p>17 being deposed as a person being deposed.</p> <p>18 Q When was the last time you were</p> <p>19 deposed?</p> <p>20 A About five years ago.</p> <p>21 Q What type of matter was that</p> <p>22 deposition related to?</p> <p>23 A A former employee of the Steelworkers</p> <p>24 Health and Welfare Fund was suing the Health</p> <p>25 and Welfare Fund for severance pay he claimed</p> |

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| <p style="text-align: right;">6</p> <p>1 Hoffman</p> <p>2 was owed to him.</p> <p>3 Q Were you being asked to testify as a</p> <p>4 representative of the steelworkers in that</p> <p>5 case?</p> <p>6 A Yes.</p> <p>7 Q How many of the approximately twenty</p> <p>8 depositions you've given have been in</p> <p>9 connection with your work for steelworkers?</p> <p>10 A All of them.</p> <p>11 Q Over what time period? I'm not going</p> <p>12 to ask you about all twenty depositions.</p> <p>13 A 45 years.</p> <p>14 Q Have you ever been a party to a</p> <p>15 lawsuit in your individual capacity?</p> <p>16 A Yes.</p> <p>17 Q About how many occasions?</p> <p>18 A As a party to a lawsuit?</p> <p>19 Q Yes.</p> <p>20 A I think on two occasions.</p> <p>21 Q What were those?</p> <p>22 A I was suing a real estate agent on a</p> <p>23 contract I had made with him about payment of</p> <p>24 rent on an investment unit I had purchased.</p> <p>25 I was a plaintiff in that case.</p> | <p style="text-align: right;">8</p> <p>1 Hoffman</p> <p>2 office, I testified in several suits</p> <p>3 involving Bucks County, people suing the</p> <p>4 county for various reasons.</p> <p>5 Q What elective office did you hold?</p> <p>6 A For the County Clerk of Courts.</p> <p>7 Q That's for Bucks County?</p> <p>8 A Yes.</p> <p>9 Q Have you held any other elective</p> <p>10 office?</p> <p>11 A Yes, supervisor for Warminster</p> <p>12 Township.</p> <p>13 Q When were you the Clerk of Courts for</p> <p>14 Bucks County?</p> <p>15 A In the '70s and '80s. I was Clerk of</p> <p>16 Courts for eight years.</p> <p>17 Q The second elected position you</p> <p>18 mentioned which was?</p> <p>19 A Supervisor, was early '70s.</p> <p>20 Q Have you held any other elective</p> <p>21 offices?</p> <p>22 A No.</p> <p>23 Q How many times have you testified as a</p> <p>24 witness in court in connection with the suit</p> <p>25 relating to the Steelworkers Money Managers?</p> |
| <p style="text-align: right;">7</p> <p>1 Hoffman</p> <p>2 In another case I was defended -- I</p> <p>3 was being sued by a contractor for some work</p> <p>4 he did for me, and he claimed I didn't pay</p> <p>5 him sufficiently.</p> <p>6 Q Have you ever given testimony in a</p> <p>7 court before?</p> <p>8 A Yes.</p> <p>9 Q In what matter?</p> <p>10 A Both those matters.</p> <p>11 Q Any other matters besides the two you</p> <p>12 described?</p> <p>13 A Yes, I've been a witness in several</p> <p>14 cases involving money managers for the</p> <p>15 Steelworkers Pension Trust. Employees leave</p> <p>16 them and start their own money management</p> <p>17 firm and they take business away, and there's</p> <p>18 usually a suit by the old firm against the</p> <p>19 new firm and I've been -- we have switched</p> <p>20 allegiance. I've testified as to the reason</p> <p>21 we've switched allegiance.</p> <p>22 I've also testified as an expert</p> <p>23 witness in innumerable domestic relation</p> <p>24 cases when it comes to valuation of pension.</p> <p>25 I've held -- when I held elective political</p> | <p style="text-align: right;">9</p> <p>1 Hoffman</p> <p>2 A How many times?</p> <p>3 Q Yes.</p> <p>4 A A few.</p> <p>5 Q Less than five?</p> <p>6 A Oh, yes.</p> <p>7 Q When was the last time you testified</p> <p>8 in a matter relating to the Steelworkers</p> <p>9 Money Managers?</p> <p>10 A Fifteen years ago.</p> <p>11 Q I should have mentioned this during my</p> <p>12 instructions, but I will make an effort not</p> <p>13 to start talking while you're answering your</p> <p>14 questions, and if you could make an effort</p> <p>15 not to talk while I'm asking my questions our</p> <p>16 court reporter will be very grateful to both</p> <p>17 of us.</p> <p>18 A Is that right?</p> <p>19 Q Have you produced any documents to the</p> <p>20 defendants in this case?</p> <p>21 A Yes.</p> <p>22 Q Did you personally search for the</p> <p>23 documents that were produced?</p> <p>24 A In a matter of speaking, yes.</p> <p>25 Q What did you do to search?</p> |

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| <p style="text-align: right;">10</p> <p>1 Hoffman</p> <p>2 A I ordered, directed staff to provide</p> <p>3 the documents. I didn't search them out</p> <p>4 myself.</p> <p>5 Q Did you provide the documents that</p> <p>6 your staff collected to counsel?</p> <p>7 A Yes.</p> <p>8 Q Have they been produced to VEECO, as</p> <p>9 far as you know?</p> <p>10 A I don't know.</p> <p>11 Q If you can give me a brief narrative</p> <p>12 description of your educational background, I</p> <p>13 would appreciate it.</p> <p>14 A I went to undergraduate school at</p> <p>15 Wharton. I took a master's degree in</p> <p>16 business administration in Columbia.</p> <p>17 Q What year did you graduate from</p> <p>18 Wharton?</p> <p>19 A '51, I think. Then I went for a</p> <p>20 master's degree at Columbia the next year.</p> <p>21 Q That was a master's in business</p> <p>22 administration?</p> <p>23 A Yes. Then I went to law school at the</p> <p>24 University of Pennsylvania, graduated in</p> <p>25 1955.</p> | <p style="text-align: right;">12</p> <p>1 Hoffman</p> <p>2 Q How many members are on the board of</p> <p>3 trustees?</p> <p>4 A Ten.</p> <p>5 Q Who is the current chairman?</p> <p>6 A Michael Felice.</p> <p>7 Q Are there any other members of the</p> <p>8 Steelworkers staff that functions as</p> <p>9 attorneys other than you?</p> <p>10 A No.</p> <p>11 Q How long have you held the position of</p> <p>12 house counsel?</p> <p>13 A Since 1958.</p> <p>14 Q You realize this covers a broad range</p> <p>15 of time, but has your responsibility as house</p> <p>16 counsel changed from '58 to today?</p> <p>17 A Yes.</p> <p>18 Q Can you describe to me generally how</p> <p>19 they've changed?</p> <p>20 A Well, prior to the enactment of ERISA</p> <p>21 it was a fairly -- how should I say -- fairly</p> <p>22 narrow job. About the only thing we had to</p> <p>23 do on a routine basis or I had to do on a</p> <p>24 routine basis was to collect delinquency.</p> <p>25 The law was all state law. I also acted as</p> |
| <p style="text-align: right;">11</p> <p>1 Hoffman</p> <p>2 Q Let's run through your employment</p> <p>3 history. We'll work from the most recent</p> <p>4 going back as far as necessary.</p> <p>5 What is your current position with the</p> <p>6 Steelworkers?</p> <p>7 A Counsel for the Steelworkers Pension</p> <p>8 Trust, house counsel.</p> <p>9 Q What are your responsibilities as</p> <p>10 house counsel?</p> <p>11 A To act as attorney for the trust,</p> <p>12 trustees and employees in all matters</p> <p>13 involving the Steelworkers Pension Trust and</p> <p>14 related matters.</p> <p>15 I also supervise the staff at the</p> <p>16 office subject to the directions of the</p> <p>17 chairman and the board of trustees.</p> <p>18 Q How large is the staff in the office</p> <p>19 currently?</p> <p>20 A In the Trevoise location, 26.</p> <p>21 Q The Trevoise location is where you</p> <p>22 currently work?</p> <p>23 A Yes. You have one other location in</p> <p>24 Pittsburgh, and there's three employees</p> <p>25 there.</p> | <p style="text-align: right;">13</p> <p>1 Hoffman</p> <p>2 counsel for the union and the union health</p> <p>3 and welfare fund at the same time.</p> <p>4 Then when ERISA was adopted, it became</p> <p>5 a whole new learning experience, of course,</p> <p>6 and I devoted more and more time to ERISA</p> <p>7 litigation, benefits litigation, matters of</p> <p>8 that sort; IRS matters, audits. of the DOL,</p> <p>9 the IRS.</p> <p>10 So it was a passage of ERISA in the</p> <p>11 years that that act was interpreted by the</p> <p>12 court, the duties became just multiplied</p> <p>13 tremendously, and I had less and less time</p> <p>14 for private practice and other things that I</p> <p>15 was engaged in.</p> <p>16 Q By private practice, do you mean you</p> <p>17 were performing some other job other than</p> <p>18 serving as house counsel for the</p> <p>19 Steelworkers?</p> <p>20 A Yes, I was partner in a couple of law</p> <p>21 firms, and I had my own private practice.</p> <p>22 Q Which law firms were you partners in?</p> <p>23 A Cordes King & Hoffmann, Goodheart &</p> <p>24 Hoffman, Rappaport & Newman.</p> <p>25 Q Can you give me the approximate dates</p> |

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| <p style="text-align: right;">14</p> <p>1 Hoffman</p> <p>2 that you were a partner at the various firms?</p> <p>3 A Rappaport & Newman was when I got out</p> <p>4 of the service, which was 1957. Goodheart &</p> <p>5 Hoffman was from that point until</p> <p>6 Mr. Goodheart became a judge. It was about</p> <p>7 ten years later.</p> <p>8 Then I was with Cordes King, which is</p> <p>9 a Bucks County firm, for four or five years.</p> <p>10 After that I was in private practice, single</p> <p>11 practitioner.</p> <p>12 Q Do you continue to have a private</p> <p>13 practice?</p> <p>14 A No.</p> <p>15 Q When did you cease having private</p> <p>16 practice?</p> <p>17 A I started to withdraw from private</p> <p>18 practice about five years ago. It took a</p> <p>19 while. It took three years to get completely</p> <p>20 out.</p> <p>21 Q Over the last three years has your</p> <p>22 work with the Steelworkers been your only</p> <p>23 source of employment?</p> <p>24 A Yes, other than assisting other</p> <p>25 attorneys in this pension litigation and</p> | <p style="text-align: right;">16</p> <p>1 Hoffman</p> <p>2 describe what the business is of the</p> <p>3 Steelworkers Pension Trust currently.</p> <p>4 A Very simple: The business is to</p> <p>5 collect contributions that employers have</p> <p>6 obligated themselves through collective</p> <p>7 bargaining with the Steelworkers union to</p> <p>8 make to the Steelworkers Pension Trust in</p> <p>9 order to provide pensions for their employees</p> <p>10 and then to invest that money, and the third</p> <p>11 part is to pay the benefits when due. Very</p> <p>12 simple.</p> <p>13 Q How many Steelworkers across the</p> <p>14 country currently have pension plans that</p> <p>15 were ultimately paid out by the Steelworkers</p> <p>16 Pension Trust?</p> <p>17 A 50,000.</p> <p>18 MR. STOCK: Can you clarify</p> <p>19 whether you're talking about only</p> <p>20 Steelworkers or whether other people</p> <p>21 not in the Steelworkers pension?</p> <p>22 MR. WALLIN: I guess I should</p> <p>23 ask the predicate questions.</p> <p>24 Q Can you describe the membership of the</p> <p>25 Steelworkers Pension Trust?</p> |
| <p style="text-align: right;">15</p> <p>1 Hoffman</p> <p>2 domestic relation cases.</p> <p>3 Q Do you currently have any non-legal</p> <p>4 job functions with the Steelworkers?</p> <p>5 A Yes.</p> <p>6 MR. STOCK: I object to the</p> <p>7 term "non-legal jobs," but if you</p> <p>8 understand it, you can answer.</p> <p>9 A Well, I supervise the staff.</p> <p>10 Q You regard that as a business function</p> <p>11 rather than a legal function?</p> <p>12 A Yes.</p> <p>13 Q What is involved in supervising a</p> <p>14 staff?</p> <p>15 A Well, a lot of it is legal. They</p> <p>16 refer all matters of interpretation of the</p> <p>17 documents, benefits of claim to me which is</p> <p>18 legal, but I also direct them in their</p> <p>19 day-to-day functions in accounting and</p> <p>20 processing benefit claims, make decisions as</p> <p>21 to vacations.</p> <p>22 Our staff is unionized and I deal with</p> <p>23 the union, grievances they may file, handle</p> <p>24 management, personnel.</p> <p>25 Q Perhaps it would be useful if you can</p> | <p style="text-align: right;">17</p> <p>1 Hoffman</p> <p>2 A It's employees who are represented</p> <p>3 through collective bargaining by the</p> <p>4 Steelworkers union.</p> <p>5 Q Who is included in the Steelworkers</p> <p>6 union?</p> <p>7 A Obviously those who work in steel</p> <p>8 mills and related industries, mainly, and</p> <p>9 today also represent many other industries</p> <p>10 that are not directly connected with steel.</p> <p>11 For example, they represent hospitals,</p> <p>12 hospital employees in certain areas of the</p> <p>13 country, but mainly it's steel and the many</p> <p>14 related industries of steel.</p> <p>15 Q Am I correct that the 50,000 members</p> <p>16 that you mentioned is the total membership of</p> <p>17 the Steelworkers union?</p> <p>18 A No. The total number now is over a</p> <p>19 half a million. The number of active</p> <p>20 participants, people who are employed</p> <p>21 actively with contributions being made on</p> <p>22 them by their employers is 50,000.</p> <p>23 Q How much money is currently under</p> <p>24 investment by the Steelworkers Pension Trust?</p> <p>25 A 1.5 billion.</p> |

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| <p style="text-align: right;">18</p> <p>1 Hoffman</p> <p>2 Q Are 100 of the Steelworkers Pension</p> <p>3 Trust funds currently vested?</p> <p>4 A I hope so, yes. To the best of my</p> <p>5 knowledge, yes.</p> <p>6 Q How does a current number of members</p> <p>7 compare, let's say, to the number of members</p> <p>8 ten years ago?</p> <p>9 A I would say it doubled.</p> <p>10 Q Has the total amount of money under</p> <p>11 investment approximately doubled as well?</p> <p>12 A Not quite always, but considerably.</p> <p>13 We were close to a billion, so it increased</p> <p>14 by 50 percent.</p> <p>15 Q Do you have any other graduate degrees</p> <p>16 other than the MBA from Columbia?</p> <p>17 MR. STOCK: And a law degree?</p> <p>18 MR. WALLIN: And the law</p> <p>19 degree.</p> <p>20 A No.</p> <p>21 Q Do you have any particular training in</p> <p>22 accounting other than what you've received in</p> <p>23 connection with receiving your MBA?</p> <p>24 A No.</p> <p>25 Q Am I correct that you're not a</p> | <p style="text-align: right;">20</p> <p>1 Hoffman</p> <p>2 Q Who are the Steelworkers' current</p> <p>3 money managers?</p> <p>4 A Well, we have twenty.</p> <p>5 MR. WALLIN: Let me mark a</p> <p>6 document I want to show you, if this</p> <p>7 list is complete. I ask you to take a</p> <p>8 look at a document that your counsel</p> <p>9 produced to us presently, SPT 01</p> <p>10 through SPT 02. It appears to be a</p> <p>11 printout from a web site.</p> <p>12 We'll mark that as Exhibit 1.</p> <p>13 (Whereupon a document bearing</p> <p>14 production numbers SPT 01 through SPT</p> <p>15 02 was marked as Exhibit 1 for</p> <p>16 identification, as of this date.)</p> <p>17 THE WITNESS: Yes, this</p> <p>18 looks -- this appears to be correct.</p> <p>19 Q Am I correct that that document is a</p> <p>20 printout from the Steelworkers Pension Trust</p> <p>21 web site?</p> <p>22 A Yes.</p> <p>23 Q When you say it was correct, I assume</p> <p>24 you're referring to the second page, SPT 02?</p> <p>25 The numbers are at the bottom right-hand</p> |
| <p style="text-align: right;">19</p> <p>1 Hoffman</p> <p>2 licensed accountant?</p> <p>3 A You are correct.</p> <p>4 Q Is the Steelworkers Pension Trust</p> <p>5 currently a party in any other securities</p> <p>6 litigations, to your knowledge?</p> <p>7 A We are in members of classes, yes.</p> <p>8 Q Is the Steelworkers currently a class</p> <p>9 representative or a lead plaintiff in any</p> <p>10 other securities litigations?</p> <p>11 A No.</p> <p>12 Q Have you ever been deposed in any</p> <p>13 litigation in which the Steelworkers were a</p> <p>14 lead plaintiff?</p> <p>15 A No.</p> <p>16 Q Do you have any responsibility for</p> <p>17 making investment decisions on behalf of the</p> <p>18 Steelworkers Pension Trust?</p> <p>19 A No.</p> <p>20 Q Who within the Steelworkers Pension</p> <p>21 Trust has responsibility for making those</p> <p>22 sorts of decisions?</p> <p>23 A Making investment decisions?</p> <p>24 Q Yes.</p> <p>25 A The money managers.</p> | <p style="text-align: right;">21</p> <p>1 Hoffman</p> <p>2 side.</p> <p>3 A Yes.</p> <p>4 Q Is this list here of managers the</p> <p>5 current list of the Steelworkers Pension</p> <p>6 Trust money managers?</p> <p>7 A Yes.</p> <p>8 Q Now, the money managers are not</p> <p>9 employees of the Steelworkers Pension Trust,</p> <p>10 are they?</p> <p>11 A No.</p> <p>12 Q Am I correct that they're outside</p> <p>13 firms that you hired to make investment</p> <p>14 decisions with the Steelworkers funds?</p> <p>15 A Yes.</p> <p>16 Q Which of the money managers listing</p> <p>17 here on SPT 2 is responsible for the largest</p> <p>18 percentage of the Steelworkers investment?</p> <p>19 A I think it's T-O-R-R-A-Y.</p> <p>20 MR. WALLIN: It's listed on SPT</p> <p>21 02 as Robert E. Torray & Company, Inc.</p> <p>22 Q What percentage of the Steelworkers</p> <p>23 funds is invested through Robert E. Torray &</p> <p>24 Company?</p> <p>25 A He has maybe 200 million.</p> |

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| <p style="text-align: right;">22</p> <p>1 Hoffman</p> <p>2 Q Do you have any understanding of how</p> <p>3 much the Steelworkers currently have invested</p> <p>4 through Fox Asset Management?</p> <p>5 A Well, it's about seven and a half</p> <p>6 percent of the entire portfolio.</p> <p>7 Q Has the amount of money invested</p> <p>8 through Fox Asset Management changed</p> <p>9 significantly over the last three to four</p> <p>10 years?</p> <p>11 A I think only by its own earnings.</p> <p>12 Q Who is responsible within the</p> <p>13 Steelworkers Pension Trust for deciding which</p> <p>14 money managers the Steelworkers will invest</p> <p>15 through?</p> <p>16 A Board of trustees.</p> <p>17 Q Do you have any roles in those</p> <p>18 decisions?</p> <p>19 A Not anymore.</p> <p>20 Q Did you at some point in the past?</p> <p>21 A Yes.</p> <p>22 Q For what period of time did you have</p> <p>23 responsibility?</p> <p>24 A Till about five years ago.</p> <p>25 Q Were you a member of the board of</p> | <p style="text-align: right;">24</p> <p>1 Hoffman</p> <p>2 A No, I don't know precisely what we did</p> <p>3 with Fox, but the normal procedure was to</p> <p>4 visit the office of the money managers under</p> <p>5 consideration, see their operation and talk</p> <p>6 to the staff, et cetera. Either I or</p> <p>7 somebody else did that with Fox Asset</p> <p>8 Management.</p> <p>9 Q Have you had any contact with anyone</p> <p>10 at Fox Asset Management in the last three</p> <p>11 years?</p> <p>12 A Only when I see the gentleman at the</p> <p>13 meetings. He comes to make presentations.</p> <p>14 Q Which gentleman are you referring to?</p> <p>15 A Sincowitz (phonetic). I forget his</p> <p>16 name.</p> <p>17 Q Do you know how to spell his name?</p> <p>18 A No. It's a Polish name.</p> <p>19 Q Is he a principal of Fox Asset</p> <p>20 Management?</p> <p>21 A Yes.</p> <p>22 Q Is he responsible for making decisions</p> <p>23 on behalf of the Steelworkers, investment</p> <p>24 decisions on behalf of the Steelworkers?</p> <p>25 A He says he is.</p> |
| <p style="text-align: right;">23</p> <p>1 Hoffman</p> <p>2 trustees at that time?</p> <p>3 A No.</p> <p>4 Q Did you have sole responsibility at</p> <p>5 that time before deciding what money managers</p> <p>6 the Steelworkers would use?</p> <p>7 A No. My role was to participate in the</p> <p>8 interview of potential money managers and to</p> <p>9 do due diligence investigations, but I</p> <p>10 voluntarily withdrew from that. It was too</p> <p>11 time consuming.</p> <p>12 Q Did you participate in the decision to</p> <p>13 retain Fox Asset Management as a money</p> <p>14 manager for the Steelworkers?</p> <p>15 A Well, they came in, I think, in 2000,</p> <p>16 so I might have participated in the selection</p> <p>17 process that included Fox. There were</p> <p>18 others, of course, under consideration, so I</p> <p>19 might have since it was five years ago.</p> <p>20 That's about when I withdrew from those</p> <p>21 duties.</p> <p>22 Q Do you recall what, if any, due</p> <p>23 diligence you did in connection with the</p> <p>24 Steelworkers' retention of Fox Asset</p> <p>25 Management?</p> | <p style="text-align: right;">25</p> <p>1 Hoffman</p> <p>2 Q Do you have any reason to believe</p> <p>3 otherwise?</p> <p>4 A No, but I know that a lot of money</p> <p>5 managers send their marketing person to these</p> <p>6 meetings who really isn't responsible but</p> <p>7 they all say they are, but I think in this</p> <p>8 case he really is.</p> <p>9 Q How large an organization is Fox Asset</p> <p>10 Management?</p> <p>11 A I don't know. I don't know.</p> <p>12 Q You said that the board of trustees</p> <p>13 currently makes decisions about which money</p> <p>14 managers the Steelworkers Pension Trust will</p> <p>15 retain.</p> <p>16 Are there particular members of the</p> <p>17 board of trustees that are responsible for</p> <p>18 making those decisions currently?</p> <p>19 A No.</p> <p>20 Q Are those decisions made on some sort</p> <p>21 of regular basis?</p> <p>22 A No.</p> <p>23 Q Are they made on an ad hoc basis, as</p> <p>24 needed?</p> <p>25 A Before we lapsed going into a positive</p> |

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| <p style="text-align: right;">26</p> <p>1 Hoffman</p> <p>2 cash flow, which was about three years ago,</p> <p>3 we had a negative cash flow, and the only</p> <p>4 time we hired new managers is when we fired</p> <p>5 existing managers.</p> <p>6 Now since we have a positive cash</p> <p>7 flow, they brought on some nontraditional</p> <p>8 managers reaching for return, but they didn't</p> <p>9 fire anybody that's got additional managers.</p> <p>10 They happen to get what we call</p> <p>11 non-traditional managers, hedge funds, real</p> <p>12 estate funds, because their trustees wanted</p> <p>13 greater return on their investment or our</p> <p>14 investment.</p> <p>15 Q Which of the current money managers</p> <p>16 listed on Exhibit 1 are hedge funds or real</p> <p>17 estate funds?</p> <p>18 A Let me see. The Multi-Employer</p> <p>19 Property Trust is a real estate. Peregrine</p> <p>20 Capital, I think, is a hedge fund.</p> <p>21 Q Any others that you recognize?</p> <p>22 A No.</p> <p>23 Q You made reference a couple of times</p> <p>24 to the fact that the Steelworkers have fired</p> <p>25 money managers in the past. What might be a</p> | <p style="text-align: right;">28</p> <p>1 Hoffman</p> <p>2 Q To your knowledge, has the</p> <p>3 Steelworkers Pension Trust filed its federal</p> <p>4 and state tax forms every year for the last</p> <p>5 five years or so?</p> <p>6 A Yes.</p> <p>7 Q Have the Steelworkers ever been the</p> <p>8 subject of an audit, the pension trust?</p> <p>9 A By DOL? We're audited every year by</p> <p>10 our auditor as required by law.</p> <p>11 Q I mean by a government agency, either</p> <p>12 DOL or the IRS or whatever.</p> <p>13 A Not for many years.</p> <p>14 Q When was the last time the</p> <p>15 Steelworkers were the subject of an audit?</p> <p>16 A It had to be in the '70s.</p> <p>17 Q Let me just remind you again I think</p> <p>18 we're still beginning to talk over each</p> <p>19 other, and I think we're making life</p> <p>20 difficult for our court reporter so just keep</p> <p>21 that in mind.</p> <p>22 You said seven years ago?</p> <p>23 A In the '70s.</p> <p>24 Q I apologize.</p> <p>25 Has the Steelworkers Pension Trust</p> |
| <p style="text-align: right;">27</p> <p>1 Hoffman</p> <p>2 basis for firing money managers?</p> <p>3 A Only one basis. Poor performance.</p> <p>4 Q When is the last time the Steelworkers</p> <p>5 fired a money manager for poor performance?</p> <p>6 A I forget. About three years ago.</p> <p>7 Q Which money manager was that?</p> <p>8 A I forget who it was. Once they're</p> <p>9 gone, I forget about them.</p> <p>10 Q I think this was clear from your</p> <p>11 previous testimony, but is the list of money</p> <p>12 managers on Exhibit 1 current?</p> <p>13 A I believe so. There might be a few</p> <p>14 additions.</p> <p>15 Q For example, is Fox Asset Management</p> <p>16 still a current money managers?</p> <p>17 A Yes, they're still money managers.</p> <p>18 There has been no deletions. Maybe a couple</p> <p>19 of small additions; real estate, hedge funds.</p> <p>20 Q Are you responsible for filing the</p> <p>21 Steelworkers tax returns every year?</p> <p>22 A No. I review them.</p> <p>23 Q Do you retain an outside tax</p> <p>24 specialist for that purpose?</p> <p>25 A No. The accounting manager does that.</p> | <p style="text-align: right;">29</p> <p>1 Hoffman</p> <p>2 ever been the subject of any sort of</p> <p>3 administrative investigation, for example, by</p> <p>4 the SEC?</p> <p>5 A No.</p> <p>6 Q Has it ever been the subject of any</p> <p>7 administrative investigation by some federal</p> <p>8 agency other than the SEC?</p> <p>9 A No.</p> <p>10 Q What about a state agency?</p> <p>11 A No.</p> <p>12 Q Have you personally ever been</p> <p>13 investigated by the SEC?</p> <p>14 A Not to my knowledge, no.</p> <p>15 Q Am I correct that you don't have any</p> <p>16 prior criminal background?</p> <p>17 A None.</p> <p>18 Q Do you know why you're being deposed</p> <p>19 today?</p> <p>20 A Yes.</p> <p>21 Q What is your understanding of why</p> <p>22 you're being deposed today?</p> <p>23 A To determine whether the Steelworkers</p> <p>24 Pension Trust is a suitable lead plaintiff.</p> <p>25 Q What does it mean to be a lead</p> |

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| <p style="text-align: right;">30</p> <p>1 Hoffman</p> <p>2 plaintiff in a securities action?</p> <p>3 A A lead plaintiff is very similar to</p> <p>4 what we do. Of course, all of us who have</p> <p>5 responsibilities for the Steelworkers Pension</p> <p>6 Trust or fiduciaries under ERISA have a</p> <p>7 tremendous fiduciary responsibility, and that</p> <p>8 is what I analogize to being lead plaintiff.</p> <p>9 You have to act in a fiduciary</p> <p>10 capacity for other members of the class. You</p> <p>11 have to make sure that any settlements that</p> <p>12 are proffered are reasonable and suitable.</p> <p>13 You have to make sure that the fees and</p> <p>14 expenses charged by plaintiff's counsel are</p> <p>15 fair and reasonable. You have to make</p> <p>16 yourself available to testify for depositions</p> <p>17 and in court. You have to gather all kinds</p> <p>18 of information by being fiduciary for all the</p> <p>19 other class members.</p> <p>20 Q Who within the Steelworkers Pension</p> <p>21 Trust would be responsible for ensuring that</p> <p>22 the Steelworkers fulfill the fiduciary duties</p> <p>23 that you just described?</p> <p>24 A Me.</p> <p>25 Q Would anyone else within the</p> | <p style="text-align: right;">32</p> <p>1 Hoffman</p> <p>2 A Counsel keeps us advised, and perhaps</p> <p>3 we would make suggestions. Just knowing what</p> <p>4 is going on gives you the ability to</p> <p>5 influence it to some degree.</p> <p>6 Q How many securities litigations in the</p> <p>7 last five years have the Steelworkers sought</p> <p>8 to be named as lead plaintiff?</p> <p>9 A How many?</p> <p>10 Q Yes.</p> <p>11 A Just one, I believe.</p> <p>12 Q Are you referring to the current</p> <p>13 litigation?</p> <p>14 A No, besides this one.</p> <p>15 Q Which litigation are you referring to?</p> <p>16 A WorldCom Bond.</p> <p>17 Q Were the Steelworkers, in fact, named</p> <p>18 as lead plaintiff in that action?</p> <p>19 A No, the whole action was dropped.</p> <p>20 We're getting some money out of WorldCom</p> <p>21 Bond, but it's through the SEC.</p> <p>22 Q When you say the action was dropped,</p> <p>23 you mean that it was dismissed by the court?</p> <p>24 A No, something else happened. I forget</p> <p>25 exactly.</p> |
| <p style="text-align: right;">31</p> <p>1 Hoffman</p> <p>2 Steelworkers Pension Trust share those</p> <p>3 responsibilities?</p> <p>4 A Perhaps my assistant. He's not a</p> <p>5 lawyer, but he's going to law school.</p> <p>6 Q Is it your understanding that the</p> <p>7 Steelworkers Pension Trust is somehow</p> <p>8 obligated to serve or attempt to serve as a</p> <p>9 lead plaintiff in certain securities actions</p> <p>10 in order to fulfill its fiduciary duties to</p> <p>11 its members?</p> <p>12 A No, we're not obligated to serve as</p> <p>13 lead counsel.</p> <p>14 Q What are the advantages of the</p> <p>15 Steelworkers Pension Trust of serving as a</p> <p>16 lead plaintiff in a securities action?</p> <p>17 A Well, we have been and are presently</p> <p>18 members of classes in many securities</p> <p>19 litigation, and we have no idea what is going</p> <p>20 on until we get a statement of, "Here is what</p> <p>21 you're going to get if you want it."</p> <p>22 So the advantage is keeping abreast of</p> <p>23 what is going on and to some extent being</p> <p>24 able to influence it.</p> <p>25 Q Influence litigation in what manner?</p> | <p style="text-align: right;">33</p> <p>1 Hoffman</p> <p>2 Q Was the lead plaintiff ever named in</p> <p>3 that action?</p> <p>4 A No, there was never any class action</p> <p>5 as far as I know.</p> <p>6 Q Do you know whether the court refused</p> <p>7 to certify a class in that action?</p> <p>8 A No, I don't. I don't remember.</p> <p>9 Q What is your understanding of what a</p> <p>10 class action is?</p> <p>11 A It's sort of a device to save court</p> <p>12 time, to reduce costs when you have a lot of</p> <p>13 people allegedly injured by an action, and</p> <p>14 they're all in the same position and they all</p> <p>15 have essentially the same claim, the only</p> <p>16 difference being the extent of your damages.</p> <p>17 Then you can qualify as a class and sort of</p> <p>18 pool your resources and cut down the cost of</p> <p>19 litigation, and it's helpful to the courts</p> <p>20 because it eliminates multiple litigation of</p> <p>21 the same issue. Instead of having a hundred</p> <p>22 cases on the same issue or a thousand or</p> <p>23 2,000, you'll have just one.</p> <p>24 Q Can you define for me the class of</p> <p>25 persons that the Steelworkers are seeking to</p> |

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| <p style="text-align: right;">34</p> <p>1 Hoffman</p> <p>2 represent in this action?</p> <p>3 A The class of persons? Anybody who</p> <p>4 invested in VEECO securities during the</p> <p>5 period involved and lost money.</p> <p>6 Q Do you know what the period involved</p> <p>7 is?</p> <p>8 A I think it was 2004.</p> <p>9 Q Do you know the specific dates?</p> <p>10 A No. I don't remember. I've seen it,</p> <p>11 but I don't remember.</p> <p>12 Q Do you know if there are any other</p> <p>13 lead plaintiffs in this action other than the</p> <p>14 Steelworkers Pension Trust?</p> <p>15 A As far as I know, we're the only lead</p> <p>16 plaintiff.</p> <p>17 Q You mentioned before that one of the</p> <p>18 advantages of being a lead plaintiff in your</p> <p>19 view is that it allowed the Steelworkers to</p> <p>20 stay abreast of actions in which it had an</p> <p>21 interest, correct?</p> <p>22 A Correct.</p> <p>23 Q Do you receive documents relating to</p> <p>24 this litigation from your counsel that</p> <p>25 assists you in keeping abreast of the action?</p> | <p style="text-align: right;">36</p> <p>1 Hoffman</p> <p>2 plaintiff, I believe.</p> <p>3 Q That is your understanding as to what</p> <p>4 that opinion related to was the certification</p> <p>5 of the class?</p> <p>6 A Yes.</p> <p>7 Q Do you know who Michael Weiss is?</p> <p>8 A Yes, he was an officer in VEECO.</p> <p>9 Q Do you know who John Kiernan is?</p> <p>10 A Yes, he was also an officer.</p> <p>11 Q Do you know whether they are currently</p> <p>12 defendants in the action?</p> <p>13 A Those two are, yes.</p> <p>14 Q Did you review the consolidated</p> <p>15 amended client that was filed in this action?</p> <p>16 A Yes.</p> <p>17 Q The consolidated amended complaint</p> <p>18 refers to a number of confidential witnesses;</p> <p>19 do you recall that?</p> <p>20 A I know there are confidential</p> <p>21 witnesses.</p> <p>22 Q Have you ever spoken to them?</p> <p>23 A Me? No.</p> <p>24 Q Has anyone at the Steelworkers ever</p> <p>25 spoken to these confidential witnesses?</p> |
| <p style="text-align: right;">35</p> <p>1 Hoffman</p> <p>2 A Oh, yes.</p> <p>3 Q Approximately how often do you receive</p> <p>4 documents from lead counsel?</p> <p>5 A Frequently.</p> <p>6 Q Can you give me some sense of what you</p> <p>7 mean by frequently?</p> <p>8 A I would say every quarter, at least.</p> <p>9 Q Who is your main contact at your</p> <p>10 counsel's office?</p> <p>11 A Phyllis Parker.</p> <p>12 Q Do you know which court the action is</p> <p>13 currently pending in?</p> <p>14 A I believe it's the Federal District</p> <p>15 Court for New York.</p> <p>16 Q Do you know who the judge is?</p> <p>17 A McMahon.</p> <p>18 Q Do you know whether the courts issued</p> <p>19 any written decisions in this case to date?</p> <p>20 A I think so.</p> <p>21 Q Do you know what those decisions</p> <p>22 related to?</p> <p>23 A I think one was -- I don't know if the</p> <p>24 class has been certified. If the class has</p> <p>25 been certified, we're named as lead</p> | <p style="text-align: right;">37</p> <p>1 Hoffman</p> <p>2 A Not to my knowledge.</p> <p>3 Q Do you know the identity of the</p> <p>4 confidential witnesses?</p> <p>5 A No, I don't.</p> <p>6 Q Does the Steelworkers Pension Trust</p> <p>7 have any current judgments against it?</p> <p>8 A No.</p> <p>9 Q Is a Steelworkers Pension Trust a</p> <p>10 creditor in any outstanding judgments or</p> <p>11 liens?</p> <p>12 A Yes.</p> <p>13 Q Which ones?</p> <p>14 A Oh, I don't know. We handle -- I</p> <p>15 handle literally hundreds of delinquencies</p> <p>16 every year. Many of those go to judgment,</p> <p>17 and I usually then file them in the state</p> <p>18 court of the county where the employer is</p> <p>19 located so we have lots of liens against</p> <p>20 employers all over the country. If you'd</p> <p>21 like, I'll sell them to you very reasonably.</p> <p>22 Q I have no interest in speculating in</p> <p>23 Steelworkers' debt. Thank you for the offer.</p> <p>24 Do you have any outstanding judgments</p> <p>25 or liens other than against employer</p> |

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| <p style="text-align: right;">38</p> <p>1 Hoffman</p> <p>2 delinquencies?</p> <p>3 A Other than those involved in employer</p> <p>4 delinquencies, none.</p> <p>5 Q Do you have a general understanding of</p> <p>6 the Steelworkers Pension Trust overall</p> <p>7 investment portfolio?</p> <p>8 A Yes.</p> <p>9 Q Percentage of the Steelworkers</p> <p>10 investment portfolio is invested in equities?</p> <p>11 A 70 percent.</p> <p>12 Q Is the remainder invested in debt?</p> <p>13 A Yes.</p> <p>14 Q You seem quite sure of those</p> <p>15 percentages. Is that mandated by some</p> <p>16 by-laws or something of the trust?</p> <p>17 A Well, the allocation of your</p> <p>18 investments is one of the key things in</p> <p>19 fulfilling the trustees' fiduciary</p> <p>20 obligations to make prudent investments.</p> <p>21 Asset allocation is where you start.</p> <p>22 So asset allocation is reviewed almost</p> <p>23 annually. Although we haven't changed it in</p> <p>24 many years, we spent a lot of money reviewing</p> <p>25 asset allocation, so that's very important.</p> | <p style="text-align: right;">40</p> <p>1 Hoffman</p> <p>2 insulation. The trustees do not want to be</p> <p>3 responsible for investments that go sour, and</p> <p>4 the way you do that in accordance with the</p> <p>5 law is that you select qualified certified</p> <p>6 money managers. You're very careful in</p> <p>7 selecting, making sure you're getting good</p> <p>8 ones, and then you have a duty to monitor</p> <p>9 them. And if you do that, you're thereby</p> <p>10 insulating yourself as a trustee.</p> <p>11 If the money manager makes important</p> <p>12 investments like this one, VEECO, and some</p> <p>13 disgruntled participants were to sue for</p> <p>14 breach of fiduciary duty, trustees would show</p> <p>15 we didn't breach our fiduciary duty, we</p> <p>16 selected -- carefully selected a money</p> <p>17 manager, we monitored with a recorder and</p> <p>18 things happened, but we're not responsible</p> <p>19 for investments that go sour because we don't</p> <p>20 actually make the investment decision. The</p> <p>21 money manager has the responsibility.</p> <p>22 Q Who is responsible for monitoring the</p> <p>23 performance of the money managers?</p> <p>24 A The trustees.</p> <p>25 Q As a group or as a specific</p> |
| <p style="text-align: right;">39</p> <p>1 Hoffman</p> <p>2 That is where you start, where the asset</p> <p>3 allocation is, 70/30.</p> <p>4 Q For how long has the asset allocation</p> <p>5 been 70 percent equity and 30 percent debt?</p> <p>6 A For at least fifteen years.</p> <p>7 Q I'll ask this question generally, and</p> <p>8 you can tell me if it is different for</p> <p>9 different money managers:</p> <p>10 Are the Steelworkers Pension Trust</p> <p>11 money managers allowed to make investment</p> <p>12 decisions on behalf of the Steelworkers</p> <p>13 Pension Trust without the Steelworkers</p> <p>14 Pension Trust's approval?</p> <p>15 A Yes.</p> <p>16 Q Is that true for every one of the</p> <p>17 money managers listed on Exhibit 1?</p> <p>18 A Yes.</p> <p>19 Q How common is it for a money manager</p> <p>20 to consult with the Steelworkers Pension</p> <p>21 Trust about a particular investment?</p> <p>22 A It is extremely uncommon and</p> <p>23 discouraged.</p> <p>24 Q Why is it discouraged?</p> <p>25 A Because the trustees are seeking</p> | <p style="text-align: right;">41</p> <p>1 Hoffman</p> <p>2 individual?</p> <p>3 A No, as a group.</p> <p>4 Q What metrics do the trustees use to</p> <p>5 measure performance of the money managers?</p> <p>6 A We hire an outfit that measures</p> <p>7 performance that submits quarterly reports to</p> <p>8 the trustees for each money manager.</p> <p>9 Q What is the name of the outfit you're</p> <p>10 describing?</p> <p>11 A Richard D-A-H-A-B & Associates.</p> <p>12 In addition, each money manager makes</p> <p>13 at least an annual appearance before the</p> <p>14 board of trustees. Performance of money</p> <p>15 manager is reviewed by Mr. Dahab, and the</p> <p>16 trustees will question the representatives of</p> <p>17 the money manager and ask him embarrassing</p> <p>18 questions, et cetera.</p> <p>19 I might add one additional thing. Any</p> <p>20 major change is brought immediately to the</p> <p>21 attention of the board of trustees, a key</p> <p>22 person will leave the money manager, the</p> <p>23 person that Mr. Dahab and others think is the</p> <p>24 key guy, and they will notify the trustees</p> <p>25 immediately and the trustees have on occasion</p> |

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| <p style="text-align: right;">42</p> <p>1 Hoffman</p> <p>2 taken immediate action to dismiss that money</p> <p>3 manager, because the reason they hired the</p> <p>4 money manager is because of this gentleman</p> <p>5 who has now left and gone somewhere else.</p> <p>6 Q Do you attend the meetings where money</p> <p>7 managers make the annual appearance before</p> <p>8 the board of trustees?</p> <p>9 A Yes, I do.</p> <p>10 Q Do you attend all meetings of the</p> <p>11 board of trustees?</p> <p>12 A Yes, I do.</p> <p>13 Q Do these annual appearances occur</p> <p>14 seriatim, all on one day or at various time</p> <p>15 during the year?</p> <p>16 A All on one day. They devote the</p> <p>17 entire day. Meetings are two days. First</p> <p>18 day is just for money managers. The second</p> <p>19 day it's called a business meeting. That is</p> <p>20 twice a year.</p> <p>21 Q When do those meetings take place?</p> <p>22 A In June and December.</p> <p>23 Q You mentioned an employee of Fox Asset</p> <p>24 Management that was the Steelworkers contact</p> <p>25 person. I confess that I have lost his name.</p> | <p style="text-align: right;">44</p> <p>1 Hoffman</p> <p>2 Q Are minutes kept of the board of</p> <p>3 trustees meetings?</p> <p>4 A Minutes are kept of the business</p> <p>5 meeting but not of the investment managers'</p> <p>6 review. What we do is the investment</p> <p>7 managers will prepare a written presentation,</p> <p>8 besides an oral presentation, and we keep</p> <p>9 their written presentations.</p> <p>10 Q Did Fox Asset Management make a</p> <p>11 written presentation in December?</p> <p>12 A Yes.</p> <p>13 Q Did you receive those written</p> <p>14 materials?</p> <p>15 A Yes.</p> <p>16 Q Did they make any reference to the</p> <p>17 Steelworkers investment in VEECO Instruments?</p> <p>18 A No.</p> <p>19 Q Did anyone from Fox Asset Management</p> <p>20 appear at any other meetings of the board of</p> <p>21 trustees at any point in time in the last two</p> <p>22 years other than the meeting you just</p> <p>23 described?</p> <p>24 A Yes, they appear once a year.</p> <p>25 Q So they appeared at the previous</p> |
| <p style="text-align: right;">43</p> <p>1 Hoffman</p> <p>2 I think it was Sincowitz (phonetic)?</p> <p>3 A Yes.</p> <p>4 MR. STOCK: For the record, the</p> <p>5 actual name is Peter</p> <p>6 S-K-I-R-K-A-N-I-C-H.</p> <p>7 Q Do you recall the last time</p> <p>8 Mr. Skirkanich or anyone else from Fox Asset</p> <p>9 Management appeared before the board of</p> <p>10 trustees?</p> <p>11 A Yes, about three weeks ago.</p> <p>12 Q Is this in connection with the</p> <p>13 December meeting you referred to earlier?</p> <p>14 A Yes.</p> <p>15 Q Was there any discussion of the</p> <p>16 Steelworkers investment in VEECO Instruments</p> <p>17 during that meeting?</p> <p>18 A It was mentioned.</p> <p>19 Q What was discussed?</p> <p>20 A That we were participating in a class</p> <p>21 action to recover some of the money that we</p> <p>22 lost on VEECO investment by Fox management.</p> <p>23 Q Was there anything else discussed</p> <p>24 concerning that investment?</p> <p>25 A None.</p> | <p style="text-align: right;">45</p> <p>1 Hoffman</p> <p>2 December?</p> <p>3 A Yes.</p> <p>4 Q Was there any discussion of the</p> <p>5 Steelworkers investment in VEECO Instruments</p> <p>6 during that previous meeting which I gather</p> <p>7 was probably the end of 2004?</p> <p>8 A I don't remember if there were or were</p> <p>9 not.</p> <p>10 Q Did anyone else attend that meeting at</p> <p>11 the board of trustees on behalf of Fox Asset</p> <p>12 Management other than Mr. Skirkanich?</p> <p>13 A Yes. He's always accompanied by</p> <p>14 another gentleman whose name escapes me.</p> <p>15 Q Is Mr. Skirkanich a principal of Fox</p> <p>16 Asset Management?</p> <p>17 A I believe so.</p> <p>18 Q What is currently the Steelworkers</p> <p>19 Pension Trust's largest equity investment?</p> <p>20 A I don't know.</p> <p>21 Q Do you know their approximate size of</p> <p>22 the Steelworkers' largest equity investment?</p> <p>23 A It can't be more than five percent.</p> <p>24 Q Of the overall funds?</p> <p>25 A Of the overall funds.</p> |

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| <p style="text-align: right;">46</p> <p>1 Hoffman</p> <p>2 Q Do you know if any of the current</p> <p>3 investments approach the five percent level?</p> <p>4 A None come close.</p> <p>5 Q Do you know the approximate percent of</p> <p>6 the largest investment?</p> <p>7 A No.</p> <p>8 Q Are any of the investments in excess</p> <p>9 of one percent of the Steelworkers Pension</p> <p>10 Trust overall funds?</p> <p>11 A I would say yes, but I'm not</p> <p>12 absolutely sure about that. The money</p> <p>13 managers implicate each other in certain</p> <p>14 investments.</p> <p>15 Q At the end of, say, 2004 what</p> <p>16 percentage of the Steelworkers' overall</p> <p>17 investment funds were represented by its</p> <p>18 investment of VEECO Instruments?</p> <p>19 A The end of 2004? None, I believe. At</p> <p>20 this time we had sold -- I really don't know.</p> <p>21 I believe that it had been sold.</p> <p>22 Q I'll show you some documents in a</p> <p>23 minute that will hopefully refresh your</p> <p>24 recollection as to the timing of certain</p> <p>25 transactions with VEECO stock.</p> | <p style="text-align: right;">48</p> <p>1 Hoffman</p> <p>2 A The declaration of trust gives the</p> <p>3 trustees the authority to borrow money. I</p> <p>4 would say that gives them the authority to</p> <p>5 buy on margin. So I think they have the</p> <p>6 authority, but they have heretofore decided</p> <p>7 that it would be imprudent to do that.</p> <p>8 Q Do I take it from your testimony that</p> <p>9 the Steelworkers Pension Trust in your memory</p> <p>10 has never purchased securities on margin?</p> <p>11 A Never.</p> <p>12 Q Have you ever spoken to Mr. Skirkanich</p> <p>13 other than whatever communications you may</p> <p>14 have had in connection with these board of</p> <p>15 trustees meetings?</p> <p>16 A I might have called him about</p> <p>17 something I didn't understand in his report</p> <p>18 or in Dahab's report. I don't remember</p> <p>19 specifically. I do that all the time, so --</p> <p>20 or he might have called me about something.</p> <p>21 Q Why would you have been calling</p> <p>22 Mr. Skirkanich about questions you had about</p> <p>23 his report?</p> <p>24 A Because when I write the minutes,</p> <p>25 sometimes I will go over something that the</p> |
| <p style="text-align: right;">47</p> <p>1 Hoffman</p> <p>2 Does the Steelworkers Pension Trust</p> <p>3 ever buy securities on margin?</p> <p>4 A No.</p> <p>5 Q Is the Steelworkers Pension Trust</p> <p>6 restricted from buying securities on margin</p> <p>7 as a result of some sort of internal bylaws?</p> <p>8 A Yes.</p> <p>9 Q What is the source of that</p> <p>10 restriction?</p> <p>11 A It will be considered a nonprudent</p> <p>12 investment to buy on margin, although they're</p> <p>13 allowed to borrow money, the trustees, upon</p> <p>14 advice of counsel, upon review of the cases</p> <p>15 has decided it's imprudent to buy on margin,</p> <p>16 to borrow money to invest.</p> <p>17 Q Is that decision or investment</p> <p>18 philosophy memorialized in any sort of</p> <p>19 written document?</p> <p>20 A I don't remember.</p> <p>21 Q I guess what I'm asking is, is the</p> <p>22 Steelworkers Pension Trust somehow restricted</p> <p>23 from investing its security on margin or</p> <p>24 could they do it tomorrow if they felt like</p> <p>25 it?</p> | <p style="text-align: right;">49</p> <p>1 Hoffman</p> <p>2 trustees in the business meeting have said</p> <p>3 about Fox Asset Management, and if I'm not</p> <p>4 clear, I'll call him.</p> <p>5 I may have done that. I do that</p> <p>6 frequently. Whether I specifically have done</p> <p>7 it with him, I don't remember, but it's not</p> <p>8 uncommon for me to do that.</p> <p>9 Q How long do you keep minutes of the</p> <p>10 semiannual meetings of the board of trustees?</p> <p>11 A Since 1958.</p> <p>12 Q Was Fox Asset Management discussed</p> <p>13 during the most recent business meeting of</p> <p>14 the board of trustees?</p> <p>15 A Yes.</p> <p>16 Q What was the substance of that</p> <p>17 discussion?</p> <p>18 A Well, every money manager is</p> <p>19 discussed, the question being should we or</p> <p>20 should we not retain them, because Dahab will</p> <p>21 make a recommendation and the trustees will</p> <p>22 then consider the recommendation. So each</p> <p>23 meeting, a positive decision is made on each</p> <p>24 money manager as whether to retain them, give</p> <p>25 them more money or take some money away from</p> |

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| <p style="text-align: right;">50</p> <p>1 Hoffman</p> <p>2 them, so their performance was discussed.</p> <p>3 Q Are Mr. Dahab's recommendations always</p> <p>4 followed?</p> <p>5 A No, they're not.</p> <p>6 Q You're laughing. I gather there is a</p> <p>7 story behind that?</p> <p>8 A No, his recommendations usually were</p> <p>9 not followed all the time. I don't know what</p> <p>10 his batting average is, but it's over 300, I</p> <p>11 believe.</p> <p>12 Q Are you implying that he is more</p> <p>13 critical of the money managers in the board</p> <p>14 of trustees or less critical?</p> <p>15 A Much more critical.</p> <p>16 Q Has he ever issued a critical report</p> <p>17 of Fox Asset Management?</p> <p>18 A No, not to my knowledge.</p> <p>19 Q You said that you may have spoken to</p> <p>20 Mr. Skirkanich at some point outside of these</p> <p>21 annual meetings.</p> <p>22 Do you have a specific recollection of</p> <p>23 a contact with him?</p> <p>24 A No, I don't. When I do speak to these</p> <p>25 gentlemen, it's nothing monumental. It's</p> | <p style="text-align: right;">52</p> <p>1 Hoffman</p> <p>2 given the short time frame we have for</p> <p>3 this motion, I will send you the</p> <p>4 letter tomorrow. I think it was</p> <p>5 probably covered by our initial</p> <p>6 document request in any event.</p> <p>7 REQUEST NOTED:</p> <p>8 Q Do you recall approximately when the</p> <p>9 Steelworkers Pension Trust received the</p> <p>10 report that you're referring to?</p> <p>11 A No.</p> <p>12 Q Is it currently in your files, the</p> <p>13 document you were referring to?</p> <p>14 A Yes.</p> <p>15 MR. WALLIN: Hopefully that</p> <p>16 will make locating it easier.</p> <p>17 Q Does the Steelworkers Pension Trust</p> <p>18 ever purchase options?</p> <p>19 A No -- oh, well, excuse me. The hedge</p> <p>20 funds do options.</p> <p>21 Q By hedge funds, you're referring to</p> <p>22 Peregrine listed on Exhibit 1?</p> <p>23 A I think that's the only one.</p> <p>24 Q How long has Peregrine been a money</p> <p>25 manager of the Steelworkers Pension Trust?</p> |
| <p style="text-align: right;">51</p> <p>1 Hoffman</p> <p>2 just to clear up something in their report or</p> <p>3 something I don't understand which I need to</p> <p>4 understand to make sensible minutes.</p> <p>5 Q What is the nature of the reports that</p> <p>6 the money managers provide to the board of</p> <p>7 trustees?</p> <p>8 A They review their performance and give</p> <p>9 excuse for poor performance and pat</p> <p>10 themselves on the back for good performance.</p> <p>11 Q Did any of the reports provided by Fox</p> <p>12 Asset Management during the last three years</p> <p>13 reference the Steelworkers Pension Trust</p> <p>14 investment in VEECO Instruments?</p> <p>15 A It was. I don't remember exactly</p> <p>16 when, but it was noted that we had lost money</p> <p>17 with VEECO.</p> <p>18 MR. WALLIN: I ask that that</p> <p>19 document be produced. I ask that that</p> <p>20 document be collected and produced as</p> <p>21 soon as possible.</p> <p>22 MR. STOCK: We will attempt to</p> <p>23 do that, we also ask that any document</p> <p>24 request be put in writing.</p> <p>25 MR. WALLIN: That's fine, but</p> | <p style="text-align: right;">53</p> <p>1 Hoffman</p> <p>2 A I don't recall.</p> <p>3 Q Less than five years?</p> <p>4 A Yes.</p> <p>5 Q How do you know that Peregrine invests</p> <p>6 on options on behalf of the Steelworkers?</p> <p>7 A If I'm correct that Peregrine is a</p> <p>8 hedge fund, hedge fund part of their strategy</p> <p>9 is to deal in options to sell short. They</p> <p>10 hedge, so I assume that they do options.</p> <p>11 Q I understand you're not a money</p> <p>12 manager, but what is your understanding of</p> <p>13 what the advantage can be for an investor</p> <p>14 investing in options as opposed to just</p> <p>15 purchasing securities outright?</p> <p>16 A I don't know. I mean, obviously they</p> <p>17 think they can make a greater return, but the</p> <p>18 mechanics I'm not sure of.</p> <p>19 Q Does the Steelworkers Pension Trust</p> <p>20 invest in options through any money manager</p> <p>21 other than Peregrine?</p> <p>22 A The Steelworkers Pension Trust does</p> <p>23 not invest in options other than those that</p> <p>24 the hedge funds might do.</p> <p>25 Q Are the non-hedge fund money managers</p> |

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| <p style="text-align: right;">54</p> <p>1 Hoffman</p> <p>2 prohibited from investing in options on</p> <p>3 behalf of the Steelworkers?</p> <p>4 A Yes.</p> <p>5 Q Is that memorialized in some sort of</p> <p>6 investment management agreement for each</p> <p>7 money manager?</p> <p>8 A In each agreement with money managers</p> <p>9 they state their investment philosophy, and</p> <p>10 these do not include options.</p> <p>11 Q Do you draft those agreements?</p> <p>12 A I draft everything except the</p> <p>13 investment philosophy of the money manager</p> <p>14 which the money manager drafts.</p> <p>15 Q How does the Steelworkers Pension</p> <p>16 Trust select money managers? Are they</p> <p>17 solicited?</p> <p>18 A First the decision is made on what</p> <p>19 kind of money manager, whether they want a</p> <p>20 value manager, a growth manager, a bottom up,</p> <p>21 top down, small or large cap. So you decide</p> <p>22 the style that they're seeking or replacing</p> <p>23 someone with this particular style.</p> <p>24 Then Dahab will suggest perhaps six or</p> <p>25 nine money managers who have that style who</p> | <p style="text-align: right;">56</p> <p>1 Hoffman</p> <p>2 particular time, and they take one or two of</p> <p>3 the best performing companies in that sector.</p> <p>4 For example, a bottom-up manager would</p> <p>5 today look at airlines. The airline sector</p> <p>6 is not doing well, and they select a couple</p> <p>7 of airlines who might be making money, the</p> <p>8 best of the group, to invest in those.</p> <p>9 Q Am I correct that the Steelworkers</p> <p>10 Pension Trust investments in VEECO</p> <p>11 Instruments was, in fact, made through Fox</p> <p>12 Asset Management?</p> <p>13 A Yes.</p> <p>14 Q Do you regard VEECO Instruments as a</p> <p>15 large cap stock?</p> <p>16 A No, I don't. My opinion, of course,</p> <p>17 means nothing.</p> <p>18 Q You're the representative of the</p> <p>19 Steelworkers. That means something.</p> <p>20 A I have nothing to do with investments.</p> <p>21 Q Is it your understanding that Fox</p> <p>22 Asset Management's investment on behalf of</p> <p>23 the Steelworkers in VEECO Instruments was</p> <p>24 somehow inconsistent with that money</p> <p>25 managers' investment philosophy?</p> |
| <p style="text-align: right;">55</p> <p>1 Hoffman</p> <p>2 has good performance, and a subcommittee</p> <p>3 chosen by the trustee will interview the</p> <p>4 managers and cut them down to three, and</p> <p>5 those three will appear before the board and</p> <p>6 the board will make a decision.</p> <p>7 Q Does the Steelworkers Pension Trust</p> <p>8 try to have a certain number of money</p> <p>9 managers retained at any one given point in</p> <p>10 time?</p> <p>11 A No.</p> <p>12 Q Is the investment philosophy different</p> <p>13 for different money managers, I gather from</p> <p>14 your response?</p> <p>15 A Yes.</p> <p>16 Q Do you recall what the investment</p> <p>17 philosophy was for Fox Asset Management?</p> <p>18 A They describe themselves as a large</p> <p>19 cap value, bottom-up manager.</p> <p>20 Q What does that mean?</p> <p>21 A Well, large cap, large capital</p> <p>22 corporation. Value is that they're seeking</p> <p>23 short-term increase in the price of the</p> <p>24 securities they buy. Bottom-up means they</p> <p>25 take a sector that's not doing well at a</p> | <p style="text-align: right;">57</p> <p>1 Hoffman</p> <p>2 A No.</p> <p>3 Q Do you regard VEECO as a small cap</p> <p>4 company?</p> <p>5 A Well, the way we have them listed is a</p> <p>6 large cap value; however, it appears --</p> <p>7 before this VEECO thing, their idea of large</p> <p>8 cap wasn't the same as perhaps others. It's</p> <p>9 a loose term.</p> <p>10 Q Has there been any discussion, to your</p> <p>11 knowledge, between the Steelworkers Pension</p> <p>12 Trust and Fox Asset Management within the</p> <p>13 last two years as to what Fox Asset</p> <p>14 Management understood the term "large cap" to</p> <p>15 mean?</p> <p>16 A Not to my knowledge.</p> <p>17 Q When you said that the Steelworkers</p> <p>18 Pension Trust had VEECO Instruments listed,</p> <p>19 as I think you said, a large cap growth</p> <p>20 investment --</p> <p>21 A Not VEECO. We had Fox.</p> <p>22 MR. STOCK: He also didn't say</p> <p>23 growth investment.</p> <p>24 MR. WALLIN: I'm sorry.</p> <p>25 "Value" is what he said.</p> |

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| <p style="text-align: right;">58</p> <p>1 Hoffman</p> <p>2 Q When you said you had them listed in</p> <p>3 that manner, were you referring to some sort</p> <p>4 of document?</p> <p>5 A Yes, the document given to us by Rich</p> <p>6 Dahab categorizes.</p> <p>7 THE WITNESS: May I have a</p> <p>8 break?</p> <p>9 MR. WALLIN: You may certainly</p> <p>10 have a break.</p> <p>11 (Brief recess was taken.)</p> <p>12 Q Do you know when the Steelworkers</p> <p>13 first invested in VEECO Instruments?</p> <p>14 A As I recall, it was sometime in 2003.</p> <p>15 MR. WALLIN: Let's mark a</p> <p>16 document. It will be easier to do it</p> <p>17 with a document. I'm going to mark as</p> <p>18 Exhibit 2 VEECO Instruments' 10-K for</p> <p>19 the fiscal year ending December 31,</p> <p>20 2003.</p> <p>21 (Whereupon VEECO Instruments'</p> <p>22 10-K form for fiscal year ending</p> <p>23 December 31, 2003 was marked as</p> <p>24 Exhibit 2 for identification, as of</p> <p>25 this date.)</p> | <p style="text-align: right;">60</p> <p>1 Hoffman</p> <p>2 Q Why not?</p> <p>3 A Because they're bottom up. They'll</p> <p>4 take the sector that's not doing well, which</p> <p>5 high tech wasn't during those years, and</p> <p>6 select or guess among that sector who has the</p> <p>7 best potential for growth. So this would be</p> <p>8 right in line with their philosophy.</p> <p>9 Q How would you describe the industry in</p> <p>10 which VEECO Instruments operates?</p> <p>11 A Well, as best I can describe it, it's</p> <p>12 a high-tech support industry. It</p> <p>13 manufactures or produces systems and devices</p> <p>14 that other high-tech manufacturers use.</p> <p>15 For example, LED's, those outfits that</p> <p>16 make LED's for cell phones and various other</p> <p>17 devices, VEECO provides the coding system for</p> <p>18 processor device. It's the high tech within</p> <p>19 the high tech, I would say.</p> <p>20 Q Is it your understanding that VEECO's</p> <p>21 financial performance depends in large part</p> <p>22 on how successful the technologies are that</p> <p>23 it's developing?</p> <p>24 A I think when high technology -- when</p> <p>25 that sector is doing well, they will do well.</p> |
| <p style="text-align: right;">59</p> <p>1 Hoffman</p> <p>2 Q Mr. Hoffman, do you recognize this</p> <p>3 document as VEECO's 10-K for 2003?</p> <p>4 A No.</p> <p>5 Q Do you have any reason to believe that</p> <p>6 it's not VEECO's 10-K for 2003?</p> <p>7 A No.</p> <p>8 Q Take a look, if you would, at -- it's</p> <p>9 page 16 of the filing, and it's listed as</p> <p>10 page 15 of 82 on the top right-hand corner.</p> <p>11 A 16, are you saying?</p> <p>12 Q It's page 16 of the filing, but it's</p> <p>13 listed as page 15 of 82 on the top right-hand</p> <p>14 corner.</p> <p>15 Do you see the net income described</p> <p>16 about ninety percent of the way down on this</p> <p>17 particular page?</p> <p>18 A Yes.</p> <p>19 Q Does that indicate to you that VEECO</p> <p>20 had a negative net income for the years</p> <p>21 ending 2003 and 2002?</p> <p>22 A Yes.</p> <p>23 Q Does that indicate to you that VEECO</p> <p>24 Instruments was a questionable investment?</p> <p>25 A Not for Fox.</p> | <p style="text-align: right;">61</p> <p>1 Hoffman</p> <p>2 I'm no expert, but that would be my opinion,</p> <p>3 that they ride and fall with the sector.</p> <p>4 Q Is it your understanding that the</p> <p>5 performance of VEECO stock has largely</p> <p>6 tracked the overall performance of the</p> <p>7 high-tech sector?</p> <p>8 A Well, I think generally that has been</p> <p>9 the case.</p> <p>10 Q Have you become aware of any facts in</p> <p>11 the last two years that have caused you to</p> <p>12 believe that the technologies that VEECO most</p> <p>13 heavily invested in will not prove to be</p> <p>14 usable or worthwhile?</p> <p>15 A No, I would believe it's the opposite.</p> <p>16 As long as they remain high tech, it changes</p> <p>17 every year, they will always be a good growth</p> <p>18 industry.</p> <p>19 Q What do you mean by a growth industry?</p> <p>20 A I mean that the value of the shares</p> <p>21 will grow.</p> <p>22 Q Am I correct that losses during a</p> <p>23 particular year are, to your understanding,</p> <p>24 not particularly unusual for a growth</p> <p>25 company?</p> |

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| <p style="text-align: right;">62</p> <p>1 Hoffman</p> <p>2 A I believe that to be true of that</p> <p>3 industry and every industry.</p> <p>4 Q Do you know what the Steelworkers</p> <p>5 Pension Trust's expectations were with</p> <p>6 respect to appreciation of capital with</p> <p>7 regard to its investment in VEECO</p> <p>8 Instruments?</p> <p>9 A I believe that the trustees do not</p> <p>10 focus on a particular investment. They like</p> <p>11 to make at least what they call their bogie,</p> <p>12 which is the earnings assumption that the</p> <p>13 actuary makes.</p> <p>14 During these years it was about seven</p> <p>15 percent, the years of 2000, 2001 2002, 2003,</p> <p>16 2004. I think it's lower now, but their goal</p> <p>17 is to exceed what the actuary predicts based</p> <p>18 on his productions on. As long as they make</p> <p>19 more than that, they're in the good. It's</p> <p>20 disastrous to make less than that.</p> <p>21 Q Are you referring now to the aggregate</p> <p>22 performance of all the money managers?</p> <p>23 A The whole portfolio, yes.</p> <p>24 Q I gather from your previous testimony</p> <p>25 that the Steelworkers Pension Trust may use</p> | <p style="text-align: right;">64</p> <p>1 Hoffman</p> <p>2 that as being imprudent.</p> <p>3 Q How exactly does the investment</p> <p>4 philosophy differ with money managers?</p> <p>5 A Well, it's their style. Generally the</p> <p>6 money managers know that -- all pension</p> <p>7 trustees seek to protect, retain principal</p> <p>8 and yet a moderate amount of growth, six,</p> <p>9 seven percent growth.</p> <p>10 What differs between the money</p> <p>11 managers is their style value as to growth,</p> <p>12 bottom up, top down, contrarient. They</p> <p>13 allege they have particular style of</p> <p>14 approaching this, so the trustees expect to</p> <p>15 get a diversity of style.</p> <p>16 Q I take it it's not the Steelworkers</p> <p>17 Pension Trust's expectation that investments</p> <p>18 through certain money managers will be more</p> <p>19 volatile than others?</p> <p>20 A No.</p> <p>21 Q Or it's not their hope?</p> <p>22 A No.</p> <p>23 Q What is the actual hold period for an</p> <p>24 equity investment by the Steelworkers?</p> <p>25 A It's pretty long. I don't know</p> |
| <p style="text-align: right;">63</p> <p>1 Hoffman</p> <p>2 different money managers for different</p> <p>3 investment purposes; is that correct?</p> <p>4 A Yes.</p> <p>5 Q Are some of the money managers</p> <p>6 expected to invest in riskier and potentially</p> <p>7 higher investment returns than others?</p> <p>8 A No, not necessarily. The</p> <p>9 differentiation between equity money managers</p> <p>10 is not driven by one money manager being</p> <p>11 riskier than another. I'm sure if anybody</p> <p>12 was considered risky, money manager would not</p> <p>13 even consider it.</p> <p>14 Q I wasn't intending to suggest that</p> <p>15 high risk would necessarily be a bad</p> <p>16 investment. A high-risk investment can be</p> <p>17 high reward -- you can get a high reward</p> <p>18 associated with a higher risk.</p> <p>19 A Well, that's not proper for a pension</p> <p>20 fund.</p> <p>21 Q That is essentially what I was asking</p> <p>22 you is whether any of the money managers were</p> <p>23 expected to invest in higher risk and</p> <p>24 potentially higher return stocks than others.</p> <p>25 A No, I and the trustees would consider</p> | <p style="text-align: right;">65</p> <p>1 Hoffman</p> <p>2 exactly, but it's -- some money managers have</p> <p>3 very little turnover, and it ranges from very</p> <p>4 moderate turnover to -- very little turnover</p> <p>5 to moderate turnover.</p> <p>6 A money manager that has a lot of</p> <p>7 turnover that almost borders on churning</p> <p>8 would be dismissed, because you can't make</p> <p>9 any money doing that. You can make a lot of</p> <p>10 brokers' fees, but you don't make any money</p> <p>11 for your client.</p> <p>12 Q What would the average hold period be</p> <p>13 for investments through money manager that</p> <p>14 you describe as moderate turnover?</p> <p>15 A I would say almost a year. That's</p> <p>16 ruling out catastrophic, like what happened</p> <p>17 with VEECO when they restated their earnings.</p> <p>18 Something catastrophic like that can cause</p> <p>19 them to panic and get out. You would hope</p> <p>20 not, but -- or they have some inside</p> <p>21 information is going to happen, they might do</p> <p>22 something, but they usually hold an</p> <p>23 investment until it meets the money managers'</p> <p>24 expectation whether it's going to go up in</p> <p>25 value. During this certain period of time</p> |

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| <p style="text-align: right;">66</p> <p>1 Hoffman</p> <p>2 they hold it to see if their guess is good.</p> <p>3 Q Am I correct that the average hold</p> <p>4 period for money managers that you would</p> <p>5 describe as low turnover would be in excess</p> <p>6 of a year?</p> <p>7 A Oh, yes. For example, Torray has held</p> <p>8 investments for twenty years.</p> <p>9 Q Does the board of trustees do anything</p> <p>10 to monitor its investments in individual</p> <p>11 stocks after they're made?</p> <p>12 A Will you restate that?</p> <p>13 Q Does the board of trustees do anything</p> <p>14 to monitor its investment in individual</p> <p>15 stocks after they're made?</p> <p>16 For example, if the Steelworkers</p> <p>17 Pension Trust held a comparatively large</p> <p>18 investment in General Electric, would you</p> <p>19 expect the board of trustees to somehow</p> <p>20 monitor the financial performance of General</p> <p>21 Electric while the investment was</p> <p>22 outstanding?</p> <p>23 A Yes. We have a heavy position in</p> <p>24 stocks, five percent. Dahab will cut that</p> <p>25 out perhaps orally. I don't know if he'll do</p> | <p style="text-align: right;">68</p> <p>1 Hoffman</p> <p>2 that you receive on a quarterly basis?</p> <p>3 A Two inches thick.</p> <p>4 Q Does every member of the board of</p> <p>5 trustees receive it?</p> <p>6 A Yes.</p> <p>7 Q I take it you receive it as well?</p> <p>8 A Yes.</p> <p>9 Q Is it your practice to review it when</p> <p>10 you receive it?</p> <p>11 A No.</p> <p>12 Q Is it the practice of the board of</p> <p>13 trustees to review it when they receive it?</p> <p>14 A I imagine they do. I thumb through it</p> <p>15 and check with the other supervisors who go</p> <p>16 through it to determine whether there is</p> <p>17 anything really something we should be</p> <p>18 concerned about and make sure we bring it to</p> <p>19 the attention. Something like that happens,</p> <p>20 Dahab will do that, but I can't say I</p> <p>21 religiously reviewed them.</p> <p>22 Q When you say he'll do that, you mean</p> <p>23 contact the board?</p> <p>24 A If something catastrophic is in the</p> <p>25 wind, as I mentioned before, he will</p> |
| <p style="text-align: right;">67</p> <p>1 Hoffman</p> <p>2 it in writing and comment that you hold a lot</p> <p>3 of VEECO and you better look at it; I don't</p> <p>4 think it's going to do well.</p> <p>5 Then they ask the money manager who</p> <p>6 held it, but he will do that on occasion when</p> <p>7 we get a large commitment to a particular</p> <p>8 stock, but that's very infrequent.</p> <p>9 MR. WALLIN: Off the record.</p> <p>10 (Whereupon, a discussion was</p> <p>11 held off the record.)</p> <p>12 Q I believe you said that Mr. Dahab</p> <p>13 provided reports to the board of trustees on</p> <p>14 a quarterly basis; was that correct?</p> <p>15 A Yes.</p> <p>16 Q What is the nature of the reports that</p> <p>17 he provides?</p> <p>18 A He -- in those reports the performance</p> <p>19 of each money manager will be tracked what</p> <p>20 they did during that quarter, what they did</p> <p>21 year to date, what they did in the last five</p> <p>22 years for each money manager, and then he'll</p> <p>23 do an overall how the trust did, overall for</p> <p>24 that quarter.</p> <p>25 Q How long is this document typically</p> | <p style="text-align: right;">69</p> <p>1 Hoffman</p> <p>2 immediately bring that to the attention to</p> <p>3 the board.</p> <p>4 Q Do you remember the last time that he</p> <p>5 brought a catastrophic event, as you</p> <p>6 described it, to the board's attention?</p> <p>7 A No.</p> <p>8 Q Are you aware that VEECO restated its</p> <p>9 earnings?</p> <p>10 A Yes.</p> <p>11 Q Did he bring that to the board's</p> <p>12 immediate attention?</p> <p>13 A I don't remember, quite frankly.</p> <p>14 Q Do you regard Mr. Dahab as the person</p> <p>15 responsible for monitoring the Steelworkers'</p> <p>16 investments?</p> <p>17 A I would cast it differently. He is</p> <p>18 responsible for measuring the performance of</p> <p>19 the money managers and making suggestions to</p> <p>20 the trustees as to possible changes in the</p> <p>21 amount of money or getting rid of the</p> <p>22 manager.</p> <p>23 It's the trustees who do the</p> <p>24 monitoring. They make the decision, they</p> <p>25 mull over the raw data that Dahab gives him.</p> |

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| <p style="text-align: right;">70</p> <p>1 Hoffman</p> <p>2 He's primarily a measurer.</p> <p>3 Q How is Fox Asset Management performed</p> <p>4 for the Steelworkers Pension Trust as</p> <p>5 compared to the trust's other investment</p> <p>6 advisors?</p> <p>7 A It's been acceptable. They're still</p> <p>8 around.</p> <p>9 Q Will you describe them as a top</p> <p>10 performer?</p> <p>11 A No. It's hard to describe anybody</p> <p>12 today as a top performer.</p> <p>13 Q By top performer, I mean top performer</p> <p>14 as compared to the other money managers.</p> <p>15 A They are not top. I don't know who</p> <p>16 is, but I'm pretty sure it's not Fox.</p> <p>17 Q Would you describe them as middle of</p> <p>18 the pack?</p> <p>19 A I would describe them as being</p> <p>20 satisfactory performing.</p> <p>21 Q You said that before. I'm trying to</p> <p>22 understand what that means in terms of how</p> <p>23 they compared to the other money managers.</p> <p>24 A It means that their performance</p> <p>25 measured against certain universes has been</p> | <p style="text-align: right;">72</p> <p>1 Hoffman</p> <p>2 Q Were you aware prior to that time that</p> <p>3 the Steelworkers Pension Trust had an</p> <p>4 investment in VEECO Instruments?</p> <p>5 A Probably not.</p> <p>6 Q How many different companies does Fox</p> <p>7 Asset Management invest in on behalf of the</p> <p>8 Steelworkers Pension Trust at any given</p> <p>9 point?</p> <p>10 A I have no idea. I don't know.</p> <p>11 Q Could you even give me a ballpark</p> <p>12 estimate?</p> <p>13 A I would say that they would have, at</p> <p>14 most, twenty names.</p> <p>15 Q Is that a typical number of</p> <p>16 investments for one of the funds' money</p> <p>17 managers?</p> <p>18 A Yes.</p> <p>19 Q How did you first learn about the</p> <p>20 restatement?</p> <p>21 A It was brought to our attention by, I</p> <p>22 believe, Dahab.</p> <p>23 Q When was it brought to your attention</p> <p>24 by Mr. Dahab?</p> <p>25 A As I recall, it was shortly after it</p> |
| <p style="text-align: right;">71</p> <p>1 Hoffman</p> <p>2 superior. They do better than the S&P. They</p> <p>3 do better than some other vehicles. That's</p> <p>4 what we're paying them for.</p> <p>5 If the money manager doesn't do better</p> <p>6 than the S&P, then we're wasting money. We</p> <p>7 get rid of them. So when I say their</p> <p>8 performance is satisfactory, it is they're</p> <p>9 out-performing on a long-term basis the</p> <p>10 various universes against which you measure</p> <p>11 performance.</p> <p>12 Q Do you make any attempt to personally</p> <p>13 monitor the trust investments other than</p> <p>14 attending board meetings and whatever review</p> <p>15 you do of Mr. Dahab's reports?</p> <p>16 A No.</p> <p>17 Q Do you ever consult with individual</p> <p>18 board members about particular investments?</p> <p>19 A No.</p> <p>20 Q When did you first hear of a company</p> <p>21 called VEECO Instruments?</p> <p>22 A I think it was earlier this year when</p> <p>23 they restated, they announced a restatement</p> <p>24 of earnings. It was brought up as a danger</p> <p>25 sign.</p> | <p style="text-align: right;">73</p> <p>1 Hoffman</p> <p>2 was announced.</p> <p>3 Q Did he call you on the phone?</p> <p>4 A I don't know if he called me or</p> <p>5 somebody. I don't think he called me</p> <p>6 directly. He might have made it known to the</p> <p>7 chairman or some of the trustees or to</p> <p>8 another -- we also have what we call a</p> <p>9 pension monitor who acts as sort of an</p> <p>10 advisor. Howard K-L-U-T-T-Z, he works for</p> <p>11 Oppenheimer. He might have brought it to</p> <p>12 Mr. Kluttz's attention or brought it to the</p> <p>13 chairman's attention.</p> <p>14 Q How did you hear about it?</p> <p>15 A I don't remember exactly.</p> <p>16 Q Can you explain for me what</p> <p>17 Mr. Kluttz's exact role is for the</p> <p>18 Steelworkers?</p> <p>19 A He helps the trustees interview</p> <p>20 potential money managers. Although he's not</p> <p>21 engaged as a measurer, he and his staff also</p> <p>22 measure performance and report to the</p> <p>23 trustees, but his general function with the</p> <p>24 trustees is in the selection of money</p> <p>25 managers.</p> |

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| <p style="text-align: right;">74</p> <p>1 Hoffman</p> <p>2 Q How long has he served in that</p> <p>3 capacity for the Steelworkers?</p> <p>4 A Thirty years.</p> <p>5 Q When you say that he measures</p> <p>6 performance with respect to the Steelworkers</p> <p>7 investments, do you mean he makes some sort</p> <p>8 of regular report to the board similar to</p> <p>9 Mr. Dahab's report?</p> <p>10 A He makes a report, not as detailed,</p> <p>11 but similar to Mr. Dahab.</p> <p>12 Q Does he make these reports on a</p> <p>13 quarterly basis as well?</p> <p>14 A No -- wait a minute. I don't know. I</p> <p>15 know he makes them at the meetings, but I</p> <p>16 don't believe he makes it quarterly as</p> <p>17 Mr. Dahab does.</p> <p>18 Q Are these oral or written reports?</p> <p>19 A He has all kinds of written documents</p> <p>20 he presents.</p> <p>21 Q Does he provide those written</p> <p>22 documents to the board members during these</p> <p>23 meetings?</p> <p>24 A Usually, yes. Sometimes he'll have a</p> <p>25 PowerPoint presentation. Sometimes he will</p> | <p style="text-align: right;">76</p> <p>1 Hoffman</p> <p>2 A Yes.</p> <p>3 Q How far back in your file do you</p> <p>4 maintain Mr. Kluttz's reports and Mr. Dahab's</p> <p>5 reports?</p> <p>6 A We should have all of them. Now,</p> <p>7 remember I said I don't decidedly retain</p> <p>8 Mr. Kluttz's measuring reports because that's</p> <p>9 not really his job, and I'm not sure why he</p> <p>10 does it. We focus on Mr. Dahab who is paid</p> <p>11 to do it. His expertise is in that area.</p> <p>12 Q Is there some central file at the</p> <p>13 Steelworkers offices where these reports are</p> <p>14 collected or maintained?</p> <p>15 A I sure hope so, yes.</p> <p>16 Q Do you know what file that is?</p> <p>17 A We have an imaging system.</p> <p>18 Q Who is responsible for maintaining</p> <p>19 that imaging system and putting documents on</p> <p>20 it?</p> <p>21 A I am. I mean, I supervise. I</p> <p>22 don't -- accounting does the accounting</p> <p>23 stuff, various departments --</p> <p>24 Q I was merely trying to find out who</p> <p>25 has responsibility for maintaining whatever</p> |
| <p style="text-align: right;">75</p> <p>1 Hoffman</p> <p>2 have that.</p> <p>3 Q Do you receive copies of whatever</p> <p>4 documents he provides to the board?</p> <p>5 A Probably. I don't gather those</p> <p>6 decidedly as Mr. Dahab, but I think</p> <p>7 generally we will file his reports, but we're</p> <p>8 not as concerned with his reports as we are</p> <p>9 with Mr. Dahab's reports.</p> <p>10 Q What is the purpose of having</p> <p>11 Mr. Kluttz measure performance in addition to</p> <p>12 Mr. Dahab?</p> <p>13 A He just does it on his own.</p> <p>14 Q I assume he must be compensated?</p> <p>15 A Not for that, no.</p> <p>16 Q Perhaps I should give him a call.</p> <p>17 Do you know whether any of</p> <p>18 Mr. Kluttz's reports over the last two to</p> <p>19 three years refer to the Steelworkers'</p> <p>20 investment in VEECO Instruments?</p> <p>21 A No. I'm sure it's listed as an</p> <p>22 investment, but anything more than that I</p> <p>23 couldn't tell you.</p> <p>24 Q Do you keep those reports in your file</p> <p>25 as well?</p> | <p style="text-align: right;">77</p> <p>1 Hoffman</p> <p>2 reports you receive from Mr. Kluttz and</p> <p>3 Mr. Dahab.</p> <p>4 A Mr. Dahab's reports are the</p> <p>5 responsibility of the accounting department.</p> <p>6 I don't know who images -- is responsible for</p> <p>7 imaging Mr. Kluttz's reports. I don't know</p> <p>8 if they are images, because they are not</p> <p>9 really official reports.</p> <p>10 Q Is it your practice to review the</p> <p>11 public filings of companies in which the</p> <p>12 Steelworkers invest?</p> <p>13 A No.</p> <p>14 Q Is it the board's practice to review</p> <p>15 filings of the company in which the</p> <p>16 Steelworkers invest?</p> <p>17 A No.</p> <p>18 Q Do the Steelworkers make an attempt to</p> <p>19 invest more heavily in certain types of</p> <p>20 industries than others?</p> <p>21 A No.</p> <p>22 Q Is any weighting towards specific</p> <p>23 industries largely to the discretion of the</p> <p>24 money managers?</p> <p>25 A Yes.</p> |

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| <p style="text-align: right;">78</p> <p>1 Hoffman</p> <p>2 Q Is the Steelworkers Pension Trust</p> <p>3 currently invested more heavily in certain</p> <p>4 industries than others?</p> <p>5 A No.</p> <p>6 Q I believe you referred earlier to</p> <p>7 VEECO as a high-tech company, correct?</p> <p>8 A That's how I would consider it.</p> <p>9 Q Are the funds' investments through Fox</p> <p>10 Asset Management largely investments in</p> <p>11 high-tech companies?</p> <p>12 A No.</p> <p>13 Q Do you know what other companies Fox</p> <p>14 Asset Management has invested in on behalf of</p> <p>15 the Steelworkers Pension Trust other than</p> <p>16 VEECO in the last two years?</p> <p>17 A Not offhand.</p> <p>18 Q Have you ever met anyone who worked</p> <p>19 for VEECO Instruments?</p> <p>20 A No.</p> <p>21 Q Do you know if anyone at the</p> <p>22 Steelworkers Pension Trust has ever</p> <p>23 communicated directly with anyone employed by</p> <p>24 VEECO Instruments?</p> <p>25 A Would you restate that?</p> | <p style="text-align: right;">80</p> <p>1 Hoffman</p> <p>2 A I don't know. I don't believe so.</p> <p>3 Q Do you know whether any requests were</p> <p>4 made of Fox Asset Management to assess the</p> <p>5 financial condition of VEECO Instruments</p> <p>6 following the announcement that it planned to</p> <p>7 restate earnings?</p> <p>8 A Request by whom?</p> <p>9 Q Anyone affiliated with the</p> <p>10 Steelworkers.</p> <p>11 A No. It would have been improper for</p> <p>12 anyone affiliated with the Steelworkers to</p> <p>13 make such a request.</p> <p>14 Q Why would it have been improper?</p> <p>15 A Because we don't interfere in their</p> <p>16 investment decisions. Only to the extent</p> <p>17 that if we don't like them, we file it, but</p> <p>18 we don't tell them to get out of a stock or</p> <p>19 get into a stock. We don't do that.</p> <p>20 Q Has that ever happened, to your</p> <p>21 knowledge?</p> <p>22 A Never.</p> <p>23 Q Do the money managers ever discuss</p> <p>24 investment decisions that they plan to make</p> <p>25 on behalf of the Steelworkers prior to</p> |
| <p style="text-align: right;">79</p> <p>1 Hoffman</p> <p>2 Q Do you know whether anyone at the</p> <p>3 Steelworkers Pension Trust has ever</p> <p>4 communicated directly, either in writing or</p> <p>5 orally, with anyone employed by VEECO</p> <p>6 Instruments?</p> <p>7 A No. I don't know.</p> <p>8 Q Has the Steelworkers Pension Trust</p> <p>9 ever done any sort of business with VEECO</p> <p>10 Instruments, to your knowledge?</p> <p>11 A Not to my knowledge.</p> <p>12 Q When you learned that VEECO had</p> <p>13 announced that it was going to restate</p> <p>14 earnings, did you make any effort at that</p> <p>15 point in time to ascertain what, if anything</p> <p>16 -- strike that question.</p> <p>17 When you learned that VEECO</p> <p>18 Instruments planned to restate certain of its</p> <p>19 financial statements, did you make any</p> <p>20 attempt to personally assess the financial</p> <p>21 condition of VEECO Instruments at that time?</p> <p>22 A No.</p> <p>23 Q Do you know whether the board of</p> <p>24 trustees undertook any such investigation of</p> <p>25 the financial condition of VEECO?</p> | <p style="text-align: right;">81</p> <p>1 Hoffman</p> <p>2 executing those decisions?</p> <p>3 A They do not discuss specific</p> <p>4 investments with the trustees when they meet</p> <p>5 with the trustees. They may state that we're</p> <p>6 looking for multinationals or we're looking</p> <p>7 for Heartland industries or something like</p> <p>8 that, but they will never discuss that we are</p> <p>9 looking into XYZ Corporation.</p> <p>10 Q I take it, likewise, they will never</p> <p>11 inform the Steelworkers that they plan to</p> <p>12 liquidate a specific position before they</p> <p>13 actually do so?</p> <p>14 A No, they don't.</p> <p>15 Q Did you ever personally discuss with</p> <p>16 any members of the Steelworkers board of</p> <p>17 trustees the fact that VEECO had restated its</p> <p>18 earnings?</p> <p>19 A I might have, in a routine</p> <p>20 conversation with one of the trustees about</p> <p>21 another subject matter, mentioned that I know</p> <p>22 we hold VEECO and they're restating their</p> <p>23 earnings. There goes their stock. I might</p> <p>24 have said that.</p> <p>25 Q Are you referring to a specific</p> |

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| <p style="text-align: right;">82</p> <p>1 Hoffman</p> <p>2 conversation?</p> <p>3 A No, I might have. When we learn of</p> <p>4 these things, we assume that the stock is</p> <p>5 going down the tubes.</p> <p>6 Q Do you know whether VEECO stock has,</p> <p>7 in fact, gone down the tubes?</p> <p>8 A I know when they announced that they</p> <p>9 might restate, I'm pretty sure the stock</p> <p>10 dropped, which is not surprising. I would</p> <p>11 expect it to drop.</p> <p>12 Q Do you know how much it dropped?</p> <p>13 A No, not specifically.</p> <p>14 Q Do you have a general recollection of</p> <p>15 having a conversation with a specific board</p> <p>16 member about VEECO restating its earnings?</p> <p>17 A I have a general recollection</p> <p>18 discussing VEECO with people. Whether they</p> <p>19 were trustees or other employees or the</p> <p>20 chairman or Mr. Kluttz, or Mr. Dahab with</p> <p>21 whom I converse regularly -- and this didn't</p> <p>22 happen only with VEECO but in other instances</p> <p>23 things have happened, change in management --</p> <p>24 we always discuss: Well, I wonder what the</p> <p>25 money manager will do, because I'm pretty</p> | <p style="text-align: right;">84</p> <p>1 Hoffman</p> <p>2 sometimes the stock will go down much farther</p> <p>3 than it should. When people hear bad news,</p> <p>4 they panic.</p> <p>5 Q Does that mean in those situations</p> <p>6 that it's advisable to hold on to a stock if</p> <p>7 the market has reacted irrationally?</p> <p>8 A If everybody is panicking and you're</p> <p>9 calm, maybe there is something wrong with</p> <p>10 you. It's very difficult to do, when there</p> <p>11 is a panic to sell, you stand by and do</p> <p>12 nothing because you're going to go down. To</p> <p>13 me it's just a problem. I, as an individual,</p> <p>14 will panic along with everybody else, so --</p> <p>15 Q I take it you have never personally</p> <p>16 invested in VEECO Instruments?</p> <p>17 A No, I don't think so.</p> <p>18 Q Do you know the period for which VEECO</p> <p>19 restated its financial statements?</p> <p>20 A As I believe, I think it was the first</p> <p>21 three quarters of 2004.</p> <p>22 Q Do you know whether VEECO restated any</p> <p>23 of its year-end financial statements?</p> <p>24 A I'm not sure I understand your</p> <p>25 question.</p> |
| <p style="text-align: right;">83</p> <p>1 Hoffman</p> <p>2 sure that stock is going to drop.</p> <p>3 Q What I'm asking is do you recall</p> <p>4 specific persons with whom you discussed</p> <p>5 VEECO Instruments?</p> <p>6 A No, I don't recall anyone specific.</p> <p>7 Q Do you recall approximately how many</p> <p>8 conversations regarding VEECO you may have</p> <p>9 had?</p> <p>10 A Several at that time period, general</p> <p>11 discussion of this subject.</p> <p>12 Q Do you recall the substance of those</p> <p>13 discussions other than merely reciting the</p> <p>14 fact that the company had restated its</p> <p>15 earnings?</p> <p>16 A Well, we're usually -- in my world,</p> <p>17 I'm not a securities expert -- is that people</p> <p>18 who buy stock are very fickle and you're</p> <p>19 rational, in my opinion, and upon the</p> <p>20 slightest negative news they will hope for</p> <p>21 the best and make damn sure that the stock</p> <p>22 goes down by panic selling.</p> <p>23 That's one of my veins, is that the</p> <p>24 stock market is very irrational. Sometimes</p> <p>25 it turns out to be a correct move, but</p> | <p style="text-align: right;">85</p> <p>1 Hoffman</p> <p>2 Q You stated that they restated their</p> <p>3 financial statements for the first three</p> <p>4 quarters of 2004. I'm asking whether you</p> <p>5 know if they restated their previously filed</p> <p>6 10-K.</p> <p>7 A I didn't hear.</p> <p>8 Q I'm asking if you know whether VEECO</p> <p>9 restated any of its previously filed year end</p> <p>10 10-K's.</p> <p>11 A Prior to 2004?</p> <p>12 Q At any point in time.</p> <p>13 A Not to my knowledge.</p> <p>14 Q Have you read the consolidated amended</p> <p>15 class action complaint that your counsel</p> <p>16 filed in this action?</p> <p>17 A Unfortunately, I have. Are you going</p> <p>18 to ask me if I remember what I read?</p> <p>19 MR. STOCK: Just answer the</p> <p>20 questions.</p> <p>21 Q Did you read the entire document?</p> <p>22 A Yes.</p> <p>23 Q Did you read it before it was filed?</p> <p>24 A Yes, they sent it to me for signature.</p> <p>25 Q Approximately how much time did you</p> |

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| <p style="text-align: right;">86</p> <p>1 Hoffman</p> <p>2 spend reviewing the complaint?</p> <p>3 A It seemed like an eternity, but I read</p> <p>4 the complaint. I don't profess to be an</p> <p>5 expert in this field of litigation. I read</p> <p>6 the complaint. It looked all right to me.</p> <p>7 There is nothing obviously wrong about it or</p> <p>8 false. The factual statements were correct,</p> <p>9 so I signed it.</p> <p>10 Q Other than the fact that VEECO</p> <p>11 restated its financial statements for the</p> <p>12 first three quarters of 2004, were you aware</p> <p>13 of any of the substantive matters alleged in</p> <p>14 the complaint prior to reading it?</p> <p>15 MR. STOCK: Object to form.</p> <p>16 Does that include the</p> <p>17 investment made by Steelworkers</p> <p>18 Pension Trust?</p> <p>19 MR. WALLIN: No. You can</p> <p>20 excise that from the question as well.</p> <p>21 THE WITNESS: Restate your</p> <p>22 question.</p> <p>23 Q Other than the fact that the</p> <p>24 Steelworkers invested in VEECO and the fact</p> <p>25 that VEECO restated its financial statements</p> | <p style="text-align: right;">88</p> <p>1 Hoffman</p> <p>2 MR. WALLIN: Let's take a</p> <p>3 five-minute break.</p> <p>4 (Whereupon, a brief recess was</p> <p>5 taken.)</p> <p>6 Q Mr. Hoffman, can you describe in your</p> <p>7 own words plaintiff's current claims against</p> <p>8 VEECO Instruments and the individual</p> <p>9 defendants?</p> <p>10 A VEECO during the period in question</p> <p>11 overstated its earnings and just briefly</p> <p>12 overstated its earnings fraudulently and</p> <p>13 deliberately to preserve value of its shares,</p> <p>14 and then when the truth was known that the</p> <p>15 earnings were fraudulently overstated</p> <p>16 deliberately, investors investing in the</p> <p>17 stock, the true facts became known, the stock</p> <p>18 fell, and investors lost money because of the</p> <p>19 misbehavior of the principals in the company.</p> <p>20 Q When do you understand that the true</p> <p>21 facts first became known?</p> <p>22 A Early in 2005.</p> <p>23 Q Are you referring to VEECO's</p> <p>24 announcement that it was going to conduct an</p> <p>25 internal investigation?</p> |
| <p style="text-align: right;">87</p> <p>1 Hoffman</p> <p>2 for the first three quarters of 2004, were</p> <p>3 you aware of any of the other substantive</p> <p>4 matters alleged in the complaint that you</p> <p>5 reviewed prior to you reviewing it?</p> <p>6 A Yes, only because of my previous many</p> <p>7 conversations with Ms. Parker.</p> <p>8 Q What substantive matters were you made</p> <p>9 aware of?</p> <p>10 MR. STOCK: I direct you not to</p> <p>11 answer if you're talking about</p> <p>12 conversations between yourself and</p> <p>13 your attorney. That would be</p> <p>14 privileged conversation.</p> <p>15 Q Can you answer that question without</p> <p>16 disclosing privileged communications?</p> <p>17 A I know I only -- my knowledge as to</p> <p>18 why they had to restate their earnings comes</p> <p>19 through Miss Parker. I don't have an</p> <p>20 independent source of that. We discussed</p> <p>21 that, and she explained to me why they</p> <p>22 restated their earnings --</p> <p>23 MR. STOCK: I direct you not to</p> <p>24 answer further. We're getting into</p> <p>25 privilege here.</p> | <p style="text-align: right;">89</p> <p>1 Hoffman</p> <p>2 A Yes, when it became known when they</p> <p>3 were going to restate their earnings shortly</p> <p>4 or after it became known that there was</p> <p>5 some --</p> <p>6 MR. WALLIN: I ask you to take</p> <p>7 a look at a document that I'm going to</p> <p>8 mark as Exhibit 3 which is a</p> <p>9 February 11, 2005 press release that</p> <p>10 was filed by VEECO Instruments on form</p> <p>11 8-K.</p> <p>12 (Whereupon a press release</p> <p>13 dated February 11, 2005 filed by VEECO</p> <p>14 Instruments was marked as Exhibit 3</p> <p>15 for identification, as of this date.)</p> <p>16 Q Is this the press release you were</p> <p>17 referring to in your testimony a minute ago,</p> <p>18 Mr. Hoffman?</p> <p>19 A Say that again.</p> <p>20 Q Is this the press release you were</p> <p>21 referring in your testimony a moment ago?</p> <p>22 A It looks familiar.</p> <p>23 Q When you say that VEECO overstated its</p> <p>24 earnings, are you referring to the 10Q's that</p> <p>25 were filed for the first three quarters of</p> |

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| <p style="text-align: right;">90</p> <p>1 Hoffman</p> <p>2 2004?</p> <p>3 A Yes.</p> <p>4 Q What is the basis for your</p> <p>5 understanding that these earnings for the</p> <p>6 first three quarters of 2004 were overstated</p> <p>7 fraudulently and deliberately?</p> <p>8 A Because they fraudulently say that in</p> <p>9 this press release, improper entries.</p> <p>10 Q And this press release indicates to</p> <p>11 you that all members of VEECO management were</p> <p>12 aware of improper accounting entries?</p> <p>13 A It certainly means that to me, yes.</p> <p>14 Q Which specific line in the press</p> <p>15 release are you indicating that indicates</p> <p>16 that to you?</p> <p>17 A Commenting on the accounting review,</p> <p>18 Edward H. Brown, chairman and CEO of VEECO,</p> <p>19 said, "Errors and improper entries were</p> <p>20 uncovered by VEECO's internal audit staff and</p> <p>21 were limited to a single VEECO business unit,</p> <p>22 TurboDisc, which was acquired in</p> <p>23 November 2003."</p> <p>24 That says to me that there was fraud.</p> <p>25 I think that's a polite -- well, I think the</p> | <p style="text-align: right;">92</p> <p>1 Hoffman</p> <p>2 was issued?</p> <p>3 A Well, I certainly read them after the</p> <p>4 press release was issued.</p> <p>5 Q That's what I meant. Shortly</p> <p>6 thereafter?</p> <p>7 A Yes.</p> <p>8 Q Can you describe for me your</p> <p>9 understanding of Mr. Weiss' participation in</p> <p>10 the alleged fraud?</p> <p>11 A As far as I can remember, Weiss was</p> <p>12 the gentleman who was in charge of foreign</p> <p>13 sales, and some product that this TurboDisc</p> <p>14 had made was sold to some Chinese outfit for</p> <p>15 like \$10 million, and there was an</p> <p>16 understanding or an agreement that VEECO</p> <p>17 wasn't to book the sale or take credit for</p> <p>18 the 10 or so million dollars until the</p> <p>19 product was delivered and accepted by the</p> <p>20 customer. But Mr. Weiss engaged in some kind</p> <p>21 of hanky-panky so they were -- so they went</p> <p>22 ahead and booked the proceeds of the sale</p> <p>23 before they were supposed to. Mr. Weiss was</p> <p>24 the one who was able to do that.</p> <p>25 Q You're saying that based on his</p> |
| <p style="text-align: right;">91</p> <p>1 Hoffman</p> <p>2 company, of course, tried to understate their</p> <p>3 formality of the act and didn't do a very</p> <p>4 good job of it in this press release. I</p> <p>5 mean, it's a signal to anyone that there is</p> <p>6 some very serious improprieties.</p> <p>7 Q What is your basis for believing that</p> <p>8 the alleged overstatements of revenue in the</p> <p>9 first three quarters of 2004 were made</p> <p>10 fraudulently and deliberately other than the</p> <p>11 fact that the financial statements for this</p> <p>12 period were restated?</p> <p>13 MR. STOCK: Objection. Asked</p> <p>14 and answered.</p> <p>15 A From what I read in the newspaper, the</p> <p>16 statements by the company officers, I think,</p> <p>17 signaled to me and everybody else that there</p> <p>18 was something going on there that was highly</p> <p>19 improper, but I didn't know the details of it</p> <p>20 until Miss Parker related same to me.</p> <p>21 Q What newspaper articles are you</p> <p>22 referring to?</p> <p>23 A What is stated in this release.</p> <p>24 Q Did you read those newspaper articles</p> <p>25 on or around the time that this press release</p> | <p style="text-align: right;">93</p> <p>1 Hoffman</p> <p>2 position within the company?</p> <p>3 A No, that's what I heard.</p> <p>4 Q Are you aware there was briefing that</p> <p>5 was submitted to the court in this action to</p> <p>6 determine who would be named the lead</p> <p>7 plaintiff?</p> <p>8 A I'm aware that an effort was made,</p> <p>9 yes.</p> <p>10 Q Are you aware that your counsel</p> <p>11 submitted documents to the court in</p> <p>12 connection with the Steelworkers' efforts to</p> <p>13 be named lead plaintiff?</p> <p>14 MR. WALLIN: Let's mark this as</p> <p>15 Exhibit 4. This is a filing in the</p> <p>16 Eastern District of New York. This</p> <p>17 filing is now part of the record in</p> <p>18 the Southern District of New York. It</p> <p>19 is titled, "The Steelworkers Pension</p> <p>20 Trust's Reply Memorandum of Law in</p> <p>21 Further Support of Its Motion for</p> <p>22 Appointment As Lead Plaintiff and In</p> <p>23 Opposition To The Competing Motions</p> <p>24 Filed by Ratan LalChandani and</p> <p>25 NECA-IBEW Pension Fund (The Decatur</p> |

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| <p style="text-align: right;">94</p> <p>1 Hoffman</p> <p>2 Plan)."</p> <p>3 (Whereupon a reply memorandum</p> <p>4 of law by Steelworkers Pension Trust</p> <p>5 was marked as Exhibit 4 for</p> <p>6 identification, as of this date.)</p> <p>7 MR. WALLIN: I also ask you to</p> <p>8 look at a document, of another brief</p> <p>9 that was filed relating to another</p> <p>10 issue of who would be named as lead</p> <p>11 plaintiff. This will be marked as</p> <p>12 Exhibit 5.</p> <p>13 (Whereupon a brief was marked</p> <p>14 as Exhibit 5 for identification, as of</p> <p>15 this date.)</p> <p>16 MR. WALLIN: It is not</p> <p>17 necessary that he read them in their</p> <p>18 entirety.</p> <p>19 Q If you can look at Exhibit 5,</p> <p>20 Mr. Hoffman, on page 2, just under the</p> <p>21 heading, "Nature Of The Action."</p> <p>22 A Yes, I have it.</p> <p>23 Q You will see that the first sentence</p> <p>24 states that, "This federal class action on</p> <p>25 behalf of purchasers" -- it may be a typo --</p> | <p style="text-align: right;">96</p> <p>1 Hoffman</p> <p>2 that's the date that VEECO filed its 10-K for</p> <p>3 the first quarter of 2004.</p> <p>4 A No.</p> <p>5 Q Do you know what the significance is</p> <p>6 of the date February 10, 2005?</p> <p>7 A No. I guess that's when the</p> <p>8 restatement of the earnings --</p> <p>9 Q If you look back at Exhibit 3, is it</p> <p>10 correct that February 10, 2005 is the date</p> <p>11 before VEECO announced that it was conducting</p> <p>12 an internal investigation?</p> <p>13 A Yes.</p> <p>14 Q I believe you testified earlier that</p> <p>15 it was your understanding that the truth</p> <p>16 began to be known about VEECO on February 11,</p> <p>17 2005?</p> <p>18 A That's my understanding, yes.</p> <p>19 Q What is the date of the first</p> <p>20 statement made by VEECO that you allege was</p> <p>21 false and misleading?</p> <p>22 A Pardon?</p> <p>23 Q What is the date of the first</p> <p>24 statement made by VEECO that you allege was</p> <p>25 false and misleading?</p> |
| <p style="text-align: right;">95</p> <p>1 Hoffman</p> <p>2 "of the purchasers of the publicly traded</p> <p>3 stock of VEECO between April 26, 2004 and</p> <p>4 February 10, 2005," and then it says,</p> <p>5 "inclusive (the class period)."</p> <p>6 You referred in a number of your</p> <p>7 answers to the period in question. Is the</p> <p>8 period that you refer to in your answer</p> <p>9 April 26, 2004 to February 10, 2005?</p> <p>10 A I'm not certain of the date. I'm</p> <p>11 referring to the class period.</p> <p>12 Q I'm asking whether it's your</p> <p>13 understanding that the current class period</p> <p>14 is from April 26, 2004 to February 10, 2005.</p> <p>15 MR. STOCK: Objection. Asked</p> <p>16 and answered.</p> <p>17 A Yes.</p> <p>18 MR. STOCK: He said he wasn't</p> <p>19 certain.</p> <p>20 Q Do you know what the significance is</p> <p>21 of April 26, 2004?</p> <p>22 A No, other than you had to buy the</p> <p>23 stock after that date, but that is about all</p> <p>24 I would know.</p> <p>25 Q I'm asking you whether you recognize</p> | <p style="text-align: right;">97</p> <p>1 Hoffman</p> <p>2 MR. STOCK: If you're referring</p> <p>3 to the complaint, why's don't you show</p> <p>4 it to the witness?</p> <p>5 MR. WALLIN: I'll show him the</p> <p>6 complaint in a minute.</p> <p>7 A Say that again.</p> <p>8 Q What is the date of the first</p> <p>9 statement made by VEECO that you allege was</p> <p>10 false and misleading?</p> <p>11 A I don't think it was a statement. The</p> <p>12 fact that they -- statement in the normal</p> <p>13 sense of the word is when they were booking</p> <p>14 earnings they shouldn't have booked and when</p> <p>15 they were valuing inventory that had no</p> <p>16 value. That was the fraudulent act.</p> <p>17 Q I'm asking you whether you're aware of</p> <p>18 any false statements made by VEECO.</p> <p>19 A I consider that was a statement.</p> <p>20 Q I understand that. I'm asking whether</p> <p>21 you're aware of any public filings by VEECO</p> <p>22 that were false and misleading prior to the</p> <p>23 filing of the original 10-K for the first</p> <p>24 quarter of 2004.</p> <p>25 A No, I'm not aware.</p> |

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| <p style="text-align: right;">98</p> <p>1 Hoffman</p> <p>2 MR. WALLIN: I'm going to mark</p> <p>3 as Exhibit 6 a press release dated</p> <p>4 November 3, 2003 filed on Form 8-K</p> <p>5 announcing VEECO's acquisition of</p> <p>6 import Turbodisc business. Let's mark</p> <p>7 that as Exhibit 6.</p> <p>8 (Whereupon a press release</p> <p>9 dated November 3, 2003 was marked as</p> <p>10 Exhibit 6 for identification, as of</p> <p>11 this date.)</p> <p>12 MR. WALLIN: As Exhibit 7, I'm</p> <p>13 going to mark the transcript of a</p> <p>14 conference call on that same day,</p> <p>15 November 3, 2003.</p> <p>16 (Whereupon a transcript of a</p> <p>17 conference call on November 3, 2003</p> <p>18 was marked as Exhibit 7 for</p> <p>19 identification, as of this date.)</p> <p>20 Q Do you recognize the document marked</p> <p>21 as Exhibit 6?</p> <p>22 A I never saw it before.</p> <p>23 Q I take it you don't recognize</p> <p>24 Exhibit 7, either?</p> <p>25 A No.</p> | <p style="text-align: right;">100</p> <p>1 Hoffman</p> <p>2 requesting time to read it today.</p> <p>3 MR. WALLIN: This is a matter</p> <p>4 of dispute. I'm able to give</p> <p>5 Mr. Hoffman time to review this and</p> <p>6 see if he can point out any false or</p> <p>7 misleading statements in the document.</p> <p>8 THE WITNESS: I beg your</p> <p>9 pardon?</p> <p>10 Q Let me be very clear. If you were to</p> <p>11 take time to review this entire document,</p> <p>12 would you be able to identify any false and</p> <p>13 misleading statements in it?</p> <p>14 A Probably not.</p> <p>15 Q And you never saw this document?</p> <p>16 A I never saw it.</p> <p>17 Q I take it you did have an opportunity</p> <p>18 to review Exhibit 6 which is just a two-page</p> <p>19 press release?</p> <p>20 A Yes, here today.</p> <p>21 Q You're not aware of any false and</p> <p>22 misleading statements in that document?</p> <p>23 A No, I'm not.</p> <p>24 Q Looking back at what I believe we</p> <p>25 marked as Exhibit 2, which is form 10-K for</p> |
| <p style="text-align: right;">99</p> <p>1 Hoffman</p> <p>2 Q Do you know whether the Steelworkers</p> <p>3 held any VEECO stock as of November 3, 2003?</p> <p>4 A No, I don't.</p> <p>5 Q Do you recall ever learning at any</p> <p>6 point in time during 2003 or 2004 that VEECO</p> <p>7 had purchased a business unit called</p> <p>8 TurboDisc from another company called Emcore?</p> <p>9 A No.</p> <p>10 Q Are you aware of any false and</p> <p>11 misleading statements contained in Exhibit 6?</p> <p>12 A Since I'm not familiar with Exhibit 6,</p> <p>13 I can't answer that.</p> <p>14 Q Are you aware of any false or</p> <p>15 misleading statements in Exhibit 7?</p> <p>16 A Since I've never seen it before, I</p> <p>17 can't answer that.</p> <p>18 Q I take it you were not listening in on</p> <p>19 this conference call?</p> <p>20 A No, I wasn't.</p> <p>21 MR. STOCK: Note that Exhibit 7</p> <p>22 is about eight pages in very small</p> <p>23 type and it has a lot of different</p> <p>24 statements in it, and he did not have</p> <p>25 enough time to read it today, nor am I</p> | <p style="text-align: right;">101</p> <p>1 Hoffman</p> <p>2 December 31, 2003, I appreciate it's a long</p> <p>3 document and I'm not going to ask you to</p> <p>4 review it all.</p> <p>5 Sitting here today, are you able to</p> <p>6 define any false and misleading statements in</p> <p>7 that document?</p> <p>8 A No, I can't.</p> <p>9 MR. WALLIN: Let's mark as</p> <p>10 Exhibit 8 the consolidated amended</p> <p>11 class action claim in this action.</p> <p>12 (Whereupon consolidated amended</p> <p>13 class action claim was marked as</p> <p>14 Exhibit 8 for identification, as of</p> <p>15 this date.)</p> <p>16 Q Is this the complaint that you</p> <p>17 reviewed previously that you referred to?</p> <p>18 A I can't hear you.</p> <p>19 Q You referred earlier to reviewing a</p> <p>20 complaint before it was filed. Was it a</p> <p>21 final or near final version of the document</p> <p>22 that you have in your hand now?</p> <p>23 A Yes.</p> <p>24 Q I direct your attention to the first</p> <p>25 paragraph of the complaint just under the</p> |

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| <p style="text-align: right;">102</p> <p>1 Hoffman</p> <p>2 section titled, "Nature Of The Action." Do</p> <p>3 you see there in the first paragraph that it</p> <p>4 refers to a federal class action on behalf of</p> <p>5 purchasers of the securities of VEECO between</p> <p>6 November 3, 2003 and February 10, 2005?</p> <p>7 A Yes.</p> <p>8 Q Look back, if you would, at Exhibit 5,</p> <p>9 page 2.</p> <p>10 A Okay.</p> <p>11 Q You'll see on page 2, as we discussed</p> <p>12 previously, on page 2 of Exhibit 5 there is a</p> <p>13 reference to a class period of April 26, 2004</p> <p>14 to February 10, 2005.</p> <p>15 A Yes.</p> <p>16 Q In Exhibit 8 there is a different</p> <p>17 proposed class period from November 3, 2003</p> <p>18 to February 10, 2005?</p> <p>19 A Yes.</p> <p>20 Q Do you know why plaintiffs are</p> <p>21 currently asserting an action on behalf of</p> <p>22 purchasers between November 3, 2003 and</p> <p>23 February 10, 2005 as opposed to an action on</p> <p>24 behalf of purchasers of VEECO stock between</p> <p>25 April 26, 2004 and February 10, 2005?</p> | <p style="text-align: right;">104</p> <p>1 Hoffman</p> <p>2 SPT 10. It's a document entitled,</p> <p>3 "VEECO Instruments, Inc. Certification</p> <p>4 Pursuant To The Federal Securities</p> <p>5 Laws."</p> <p>6 (Whereupon a document bearing</p> <p>7 production numbers SPT 09 through SPT</p> <p>8 10 was marked as Exhibit 9 for</p> <p>9 identification, as of this date.)</p> <p>10 MR. WALLIN: And then let's</p> <p>11 mark as Exhibit 10 an amended</p> <p>12 certification pursuant to the federal</p> <p>13 securities laws, SPT 11 through SPT</p> <p>14 12.</p> <p>15 (Whereupon a document bearing</p> <p>16 production numbers SPT 11 through SPT</p> <p>17 12 was marked as Exhibit 10 for</p> <p>18 identification, as of this date.)</p> <p>19 Q Look at Exhibit 9 first.</p> <p>20 First of all, what is your</p> <p>21 understanding of what this document is?</p> <p>22 A As I recall, this was a filing that</p> <p>23 said that -- essentially that Steelworkers</p> <p>24 Pension Trust lost money and we're willing to</p> <p>25 serve as lead.</p> |
| <p style="text-align: right;">103</p> <p>1 Hoffman</p> <p>2 A That was one of the things I did</p> <p>3 notice when I read the complaint, one of the</p> <p>4 few things that I remember. I remember</p> <p>5 asking Phyllis about that --</p> <p>6 MR. STOCK: I direct you not to</p> <p>7 discuss your conversation with your</p> <p>8 attorney.</p> <p>9 If you have an understanding</p> <p>10 now, you can answer the question.</p> <p>11 THE WITNESS: My understanding</p> <p>12 is that Fox made two purchases and one</p> <p>13 they made money on, so it was the</p> <p>14 second purchase where we lost money, a</p> <p>15 set-off or something, something like</p> <p>16 that.</p> <p>17 I was just curious as to why</p> <p>18 the difference. It doesn't have a</p> <p>19 regular significance to me, but I was</p> <p>20 just curious what the difference was,</p> <p>21 one of the few things I remember.</p> <p>22 MR. WALLIN: Maybe we can look</p> <p>23 at the certifications.</p> <p>24 Let's mark as Exhibit 9 a</p> <p>25 document Bates stamped SPT 09 through</p> | <p style="text-align: right;">105</p> <p>1 Hoffman</p> <p>2 Q Is that your signature on the second</p> <p>3 page? Yes, it is?</p> <p>4 A This signature? It was signed by my</p> <p>5 assistant.</p> <p>6 Q It's on your behalf?</p> <p>7 A On my authorization.</p> <p>8 Q You reviewed this document and</p> <p>9 authorized someone to sign on your behalf?</p> <p>10 A Yes. I was away at the time and she</p> <p>11 read me the document and I said, "Yes," it's</p> <p>12 okay to sign.</p> <p>13 Q Look at Exhibit 10, if you would.</p> <p>14 A Yes.</p> <p>15 Q First of all, is that your signature</p> <p>16 on the second page of this document?</p> <p>17 A Yes.</p> <p>18 Q Do you understand why it was necessary</p> <p>19 to file an amended certification?</p> <p>20 A No. I don't remember. I probably did</p> <p>21 at the time. I don't remember why.</p> <p>22 Q Do you understand that one of the</p> <p>23 purposes of these certifications is to</p> <p>24 disclose purchasers of VEECO stock by the</p> <p>25 Steelworkers?</p> |

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| <p style="text-align: right;">106</p> <p>1 Hoffman</p> <p>2 A Yes.</p> <p>3 Q If you could compare paragraph 4 in</p> <p>4 Exhibit 9 and paragraph 4 in Exhibit 10,</p> <p>5 you'll see that Exhibit 10 reflects the sale</p> <p>6 of 40,000 shares of VEECO stock on January 6,</p> <p>7 2004 and Exhibit 9 does not; is that correct?</p> <p>8 A Correct.</p> <p>9 Q Is that sale on January 6, 2004 the</p> <p>10 sale that you were referring to a couple of</p> <p>11 minutes ago that was made prior to April 26,</p> <p>12 2004?</p> <p>13 A It was the sale of stock purchased</p> <p>14 before that date, yes.</p> <p>15 Q You referred to some transaction</p> <p>16 before April 26, 2004 was one of the reasons</p> <p>17 why the class period is different?</p> <p>18 A Yes.</p> <p>19 Q I'm asking you if you were referring</p> <p>20 to this transaction.</p> <p>21 A Yes.</p> <p>22 MR. WALLIN: Let's mark this as</p> <p>23 Exhibit 11. These are additional</p> <p>24 documents produced by your counsel in</p> <p>25 this action Bates stamped SPT 03</p> | <p style="text-align: right;">108</p> <p>1 Hoffman</p> <p>2 A It was State Street and later</p> <p>3 Deutsche, and now it is CoAmerica. They</p> <p>4 straddle this period, I think. No, Deutsche</p> <p>5 was purchased by State Street. It was</p> <p>6 Deutsche, State Street or something like</p> <p>7 that.</p> <p>8 Q I don't think it's critical for these</p> <p>9 purposes.</p> <p>10 A These look to me like statements from</p> <p>11 the custodian that we obtained and supplied</p> <p>12 to our attorney.</p> <p>13 Q Are these statements that the</p> <p>14 Steelworkers will receive on a monthly basis?</p> <p>15 A We receive statements every day on</p> <p>16 their web site. We can access by computer.</p> <p>17 9:30 every day we're updated on exactly what</p> <p>18 we hold and what amounts.</p> <p>19 Q Take a look at page SPT 06 which</p> <p>20 appears to be one of the pages of the</p> <p>21 statements from State Street. I think it</p> <p>22 would also be easier for you if you have</p> <p>23 Exhibit 10 in front of you at the same time.</p> <p>24 I want to confirm that the</p> <p>25 transactions referred to in these account</p> |
| <p style="text-align: right;">107</p> <p>1 Hoffman</p> <p>2 through 08. It appears to be an</p> <p>3 account statement or a series of</p> <p>4 account statements.</p> <p>5 I'm happy to leave them</p> <p>6 attached as one exhibit unless your</p> <p>7 counsel would prefer to separate them</p> <p>8 into different exhibits.</p> <p>9 MR. STOCK: That's fine at this</p> <p>10 point.</p> <p>11 (Whereupon a document bearing</p> <p>12 production numbers SPT 03 through SPT</p> <p>13 08 was marked as Exhibit 11 for</p> <p>14 identification, as of this date.)</p> <p>15 THE WITNESS: Yes.</p> <p>16 Q Do you recognize the documents that I</p> <p>17 just handed you and marked as Exhibit 11?</p> <p>18 A What I recognize is these are</p> <p>19 statements from the custodian about these</p> <p>20 trades.</p> <p>21 Q Who are you referring to by the</p> <p>22 custodian?</p> <p>23 A The bank that holds our -- the actual</p> <p>24 custodian of the securities.</p> <p>25 Q What bank is that?</p> | <p style="text-align: right;">109</p> <p>1 Hoffman</p> <p>2 statements are the same ones that are</p> <p>3 referred to in the certification.</p> <p>4 A What statements should I look at?</p> <p>5 Q I was suggesting it would be easier</p> <p>6 for you if you have the two documents in</p> <p>7 front of you.</p> <p>8 A I do.</p> <p>9 Q Exhibit 10, I think you probably</p> <p>10 remember, refers to the sale of 40,000 shares</p> <p>11 of VEECO stock on January 6, 2004.</p> <p>12 A Yes.</p> <p>13 Q On page SPT 06, Exhibit 11, there</p> <p>14 appears to be a reference to the sale of</p> <p>15 40,000 shares on January 6, 2004.</p> <p>16 Is this sale in this account statement</p> <p>17 the same transaction that is referred to in</p> <p>18 paragraph 4 of Exhibit 10?</p> <p>19 A I can't find page 06.</p> <p>20 MR. WALLIN: Off the record.</p> <p>21 (Whereupon, a discussion was</p> <p>22 held off the record.)</p> <p>23 THE WITNESS: What is the</p> <p>24 question?</p> <p>25 Q Whether the transaction referred to</p> |

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| <p style="text-align: right;">110</p> <p>1 Hoffman</p> <p>2 here in the first row of Exhibit 11 on page</p> <p>3 SPT 06, the sale of 40,000 shares; do you see</p> <p>4 that?</p> <p>5 A Yes.</p> <p>6 Q Is that the same transaction referred</p> <p>7 to in paragraph 4 of Exhibit 10?</p> <p>8 A It certainly appears to be, yes.</p> <p>9 Q Am I correct that this document</p> <p>10 reflects receipt of proceeds by the</p> <p>11 Steelworkers Pension Trust of \$1,255,197?</p> <p>12 A And 17 cents, yes.</p> <p>13 Q I guess that's after fees of \$59 or</p> <p>14 \$58.93?</p> <p>15 A Yes.</p> <p>16 Q Look at Steelworkers Pension Trust,</p> <p>17 07.</p> <p>18 A The next page?</p> <p>19 Q Yes, the next page.</p> <p>20 A Yes.</p> <p>21 Q This appears to reflect the purchase</p> <p>22 of two blocks of VEECO shares, one on May 19,</p> <p>23 2004 and one on May 20, 2004 with the first</p> <p>24 block being 6,675 shares and the second block</p> <p>25 being 33,325 shares; is that correct?</p> | <p style="text-align: right;">112</p> <p>1 Hoffman</p> <p>2 \$1,255,197.17 and an investment cost of</p> <p>3 \$941,595.11?</p> <p>4 A Yes.</p> <p>5 Q Both transactions were for aggregate</p> <p>6 blocks of 40,000 shares?</p> <p>7 A Yes.</p> <p>8 Q Are you aware of any other</p> <p>9 transactions in VEECO stock during the period</p> <p>10 from November 3, 2003 through February 10,</p> <p>11 2005 by the Steelworkers?</p> <p>12 A Yes. We bought some stock that we</p> <p>13 lost money on.</p> <p>14 Q I'll ask it again.</p> <p>15 Are you aware of any other purchases</p> <p>16 or sales by the Steelworkers of VEECO stock</p> <p>17 between November 3, 2003 and February 10,</p> <p>18 2005 other than the transactions listed on</p> <p>19 Exhibit 10?</p> <p>20 A No.</p> <p>21 Q The 40,000 shares that are listed as</p> <p>22 being purchased here in May of 2004 -- again,</p> <p>23 I'm referring back to Exhibit 11 -- did the</p> <p>24 Steelworkers continue to hold those shares as</p> <p>25 of February 10, 2005?</p> |
| <p style="text-align: right;">111</p> <p>1 Hoffman</p> <p>2 A Yes.</p> <p>3 Q Are those the same transactions that</p> <p>4 are referred to in paragraph 4 Exhibit 10?</p> <p>5 A That shows a purchase of approximately</p> <p>6 40,000 shares and the other one on page SPT,</p> <p>7 whatever it is --</p> <p>8 Q I'm asking you a slightly different</p> <p>9 question. I'm trying to link these</p> <p>10 transactions to the transactions that are</p> <p>11 listed on Exhibit 10.</p> <p>12 A Oh, yes.</p> <p>13 Q That's all I'm trying to figure out.</p> <p>14 I won't ask you to pull out a calculator, but</p> <p>15 I added the investment cost of the two</p> <p>16 investments made on SPT 07 and it appears to</p> <p>17 total \$941,595.11.</p> <p>18 Does that appear to be approximately</p> <p>19 current just by eyeballing it?</p> <p>20 A I guess.</p> <p>21 Q I'm looking at Steelworkers Pension</p> <p>22 Trust 07. You're probably as good or better</p> <p>23 in doing math in your head than I am.</p> <p>24 Am I correct that taken together SPT</p> <p>25 06 and SPT 07 reflect proceeds of</p> | <p style="text-align: right;">113</p> <p>1 Hoffman</p> <p>2 A Fox purchased 40,000 and sold 40,000,</p> <p>3 and they made a profit. And at a different</p> <p>4 time period they purchased more, and they</p> <p>5 lost money in the transaction.</p> <p>6 Q I'm merely asking how many shares of</p> <p>7 VEECO stock the Steelworkers held as of</p> <p>8 February 10, 2005.</p> <p>9 A I don't know.</p> <p>10 Q Does Exhibit 10 indicate to you that</p> <p>11 it must have been 40,000 shares or that it</p> <p>12 must have been at least 40,000 shares?</p> <p>13 A We purchased 40,000 shares and sold</p> <p>14 them on January 6th. I don't know.</p> <p>15 Q I might be able to clear this up with</p> <p>16 another exhibit.</p> <p>17 MR. WALLIN: I ask you to look</p> <p>18 at a document that was previously</p> <p>19 produced to me by Fox Asset</p> <p>20 Management. It's been previously</p> <p>21 provided to your counsel. Let's mark</p> <p>22 it as Exhibit 12.</p> <p>23 (Whereupon a document was</p> <p>24 marked as Exhibit 12 for</p> <p>25 identification, as of this date.)</p> |

Slimscript Copy: IN RE: VEECO INSTRUMENTS, INC.: RICHARD S. HOFFMAN, 12/8/2005

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| <p style="text-align: right;">114</p> <p>1 Hoffman</p> <p>2 Q Do you recognize what we have marked</p> <p>3 as Exhibit 12?</p> <p>4 A I never saw it before.</p> <p>5 Q Have you ever seen a document in this</p> <p>6 form before?</p> <p>7 A I've seen documents of this form</p> <p>8 before, yes.</p> <p>9 Q Do you understand how to read the</p> <p>10 document of this sort?</p> <p>11 A No.</p> <p>12 MR. STOCK: We're willing to</p> <p>13 stipulate to the accuracy of the</p> <p>14 transactions listed here.</p> <p>15 MR. WALLIN: Okay. Fine.</p> <p>16 Q Look at the bottom two transactions</p> <p>17 here on this page, Mr. Hoffman.</p> <p>18 A The last two transactions in?</p> <p>19 Q Yes.</p> <p>20 Do you recall VEECO selling -- do you</p> <p>21 recall the Steelworkers selling two blocks of</p> <p>22 VEECO shares on or around May 25, 2005?</p> <p>23 A I recall they sold shares at a loss in</p> <p>24 2005.</p> <p>25 Q Around that time period?</p> | <p style="text-align: right;">116</p> <p>1 Hoffman</p> <p>2 A We provided them with everything.</p> <p>3 MR. STOCK: I want to note for</p> <p>4 the record that there are certainly</p> <p>5 different time periods, that Exhibit</p> <p>6 10 certifies us to all transactions</p> <p>7 between November 3, 2003 to February</p> <p>8 10, 2005 and Exhibit 12 appears to</p> <p>9 include all transactions from</p> <p>10 January 2, 1997 to November 28, 2005.</p> <p>11 When the question is that only</p> <p>12 Fox Asset Management, we had no</p> <p>13 occasion to and certainly we didn't</p> <p>14 update this morning whether any other</p> <p>15 investment managers have invested</p> <p>16 outside of the class period.</p> <p>17 MR. WALLIN: I understand that,</p> <p>18 and I wasn't intending to suggest that</p> <p>19 those two documents covered the same</p> <p>20 time period.</p> <p>21 Another five-minute break, and</p> <p>22 maybe we can wrap it in 45 minutes.</p> <p>23 (Brief recess was taken.)</p> <p>24 Q We noted earlier in Exhibit 8 that the</p> <p>25 class -- proposed class period is from</p> |
| <p style="text-align: right;">115</p> <p>1 Hoffman</p> <p>2 A Yes.</p> <p>3 Q Is it your understanding that</p> <p>4 Steelworkers sold all of its holdings in</p> <p>5 VEECO Instruments at that time?</p> <p>6 A All the holdings by Fox, yes. I don't</p> <p>7 know about the others.</p> <p>8 Q Do you have any reason to believe</p> <p>9 there were holdings by other money managers</p> <p>10 other than the holdings by Fox?</p> <p>11 A I have no reason to believe that, but</p> <p>12 I can't swear that they didn't have an</p> <p>13 investment in VEECO.</p> <p>14 Q What steps did you take to ensure that</p> <p>15 the certification marked as Exhibit 10 was</p> <p>16 accurate when you signed it?</p> <p>17 A I didn't take any steps. I assumed it</p> <p>18 was accurate because of all the information</p> <p>19 that we had given to our attorney. I didn't</p> <p>20 go back and check the documents we had given</p> <p>21 them, our attorneys, and I trusted them, and</p> <p>22 I assume that they put the correct</p> <p>23 information.</p> <p>24 Q Does that mean you provided some sort</p> <p>25 of trading records to your attorneys?</p> | <p style="text-align: right;">117</p> <p>1 Hoffman</p> <p>2 November 3, 2003 to February 10, 2005,</p> <p>3 correct?</p> <p>4 A Yes.</p> <p>5 Q Is it your view that the price of</p> <p>6 VEECO stock was inflated at all points in</p> <p>7 time during that period?</p> <p>8 A Can you repeat that?</p> <p>9 Q Is it your view that the price of</p> <p>10 VEECO stock was inflated as a result of false</p> <p>11 and misleading statements by VEECO at all</p> <p>12 points in time during that period?</p> <p>13 A I can only tell you that the price was</p> <p>14 inflated at the time we purchased it.</p> <p>15 Q Do you have a view whether it was</p> <p>16 inflated?</p> <p>17 A Yes, I have a view. It probably was</p> <p>18 inflated.</p> <p>19 Q Are you aware that the complaint</p> <p>20 alleges that the price of VEECO stock was</p> <p>21 inflated at all points in time between</p> <p>22 November 3, 2003 and February 10, 2005?</p> <p>23 A I don't specifically remember that</p> <p>24 allegation. I know it was inflated at the</p> <p>25 time we purchased it.</p> |

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| <p style="text-align: right;">118</p> <p>1 Hoffman</p> <p>2 MR. WALLIN: Take a look at a</p> <p>3 document that I'm going to mark as</p> <p>4 Exhibit 13. It is a document that I</p> <p>5 received yesterday afternoon from Fox</p> <p>6 Asset Management. It appears to be</p> <p>7 some additional accounts statements</p> <p>8 from Fox Asset Management.</p> <p>9 (Whereupon a series of account</p> <p>10 statements from Fox Asset Management</p> <p>11 was marked as Exhibit 13 for</p> <p>12 identification, as of this date.)</p> <p>13 Q Before we get into Exhibit 13, look</p> <p>14 back to Exhibit 8, paragraph 143.</p> <p>15 A Exhibit 8?</p> <p>16 Q Yes. Paragraph 143. It's on page 56</p> <p>17 of the document.</p> <p>18 A Got it.</p> <p>19 Q Do you see the last sentence in that</p> <p>20 paragraph? I just want to make sure we're</p> <p>21 very clear on one point. "Under these</p> <p>22 circumstances, all purchasers of VEECO</p> <p>23 securities during the Class Period suffered</p> <p>24 similar injury through their purchase of</p> <p>25 VEECO securities at artificially inflated</p> | <p style="text-align: right;">120</p> <p>1 Hoffman</p> <p>2 About halfway in at the top of the</p> <p>3 page with an "as of" date in the top</p> <p>4 right-hand corner of 31 January '04, it is a</p> <p>5 page that relates to transaction of an asset,</p> <p>6 ID 922-41-7100.</p> <p>7 MR. STOCK: Is that the one</p> <p>8 that says May 1, '04 through May 31,</p> <p>9 '04?</p> <p>10 MR. WALLIN: I think we're</p> <p>11 looking at a different page.</p> <p>12 MR. STOCK: Oh, it's a State</p> <p>13 Street page?</p> <p>14 MR. WALLIN: Yes. The page</p> <p>15 appears to be split into two parts.</p> <p>16 I'm looking at the second split page.</p> <p>17 MR. STOCK: Okay.</p> <p>18 MR. WALLIN: It has a reference</p> <p>19 to a transaction of 40,000 shares.</p> <p>20 Q Do you see that, Mr. Hoffman?</p> <p>21 A Yes, I see it.</p> <p>22 Q Do you recognize this document?</p> <p>23 A I never saw it.</p> <p>24 Q Do you recognize the form of this</p> <p>25 document?</p> |
| <p style="text-align: right;">119</p> <p>1 Hoffman</p> <p>2 prices and a presumption of reliance</p> <p>3 applies."</p> <p>4 Do you see that sentence?</p> <p>5 A Yes. Yes, I see that sentence.</p> <p>6 Q Does that refresh your recollection</p> <p>7 that the complaint alleges that the price of</p> <p>8 VEEGO stock was artificially inflated</p> <p>9 throughout the class period?</p> <p>10 A Apparently it was, yes.</p> <p>11 Q Do you have any reason to disagree</p> <p>12 with that allegation sitting here today?</p> <p>13 A No.</p> <p>14 Q Look at Exhibit 13 that I just handed</p> <p>15 to you.</p> <p>16 MR. WALLIN: Again, Exhibit 13</p> <p>17 appears to be a collection of account</p> <p>18 statements that I'm happy to leave</p> <p>19 marked in a collection, but if your</p> <p>20 counsel would prefer to separate them,</p> <p>21 I will.</p> <p>22 MR. STOCK: No.</p> <p>23 Q This document doesn't have page</p> <p>24 numbers, so it will be a little cumbersome to</p> <p>25 get to the page I want.</p> | <p style="text-align: right;">121</p> <p>1 Hoffman</p> <p>2 A Yes, I do.</p> <p>3 Q What is the form of this document?</p> <p>4 A It just shows trades during a</p> <p>5 particular period of time, or a particular</p> <p>6 trade.</p> <p>7 Q Is this the sort of report that the</p> <p>8 Steelworkers received from their money</p> <p>9 managers on a regular basis?</p> <p>10 A No.</p> <p>11 Q Do you ever receive these type of</p> <p>12 reports?</p> <p>13 A No, unless we specifically request</p> <p>14 them. The report is prepared by the money</p> <p>15 manager.</p> <p>16 Q Do you receive account statements on a</p> <p>17 periodic basis from the money managers?</p> <p>18 A Every day through the custodian.</p> <p>19 Q Is this one of the daily account</p> <p>20 statements?</p> <p>21 A It appears to be, yes.</p> <p>22 Q Do you feel confident that you know</p> <p>23 how to read this document correctly?</p> <p>24 A No, I don't feel confident.</p> <p>25 Q I'm going to ask you about specific</p> |

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| <p style="text-align: right;">122</p> <p>1 Hoffman</p> <p>2 items. We'll see if you understand.</p> <p>3 The reference here on the top left</p> <p>4 corner to 40,000 shares appears to refer to a</p> <p>5 transaction on January 6, 2004. Is that the</p> <p>6 same transaction that is referred to in</p> <p>7 paragraph 4 of Exhibit 10?</p> <p>8 A It appears to be.</p> <p>9 Q That is the transaction that had</p> <p>10 proceeds of \$1,255,197.17?</p> <p>11 A Correct.</p> <p>12 Q Looking one space over underneath the</p> <p>13 column titled, "Base Cost," there is a number</p> <p>14 \$1,033,024.50.</p> <p>15 Does that column indicate the cost</p> <p>16 basis of the Steelworkers' purchase of this</p> <p>17 block of VEECO securities?</p> <p>18 A Yes.</p> <p>19 Q Does the third column with number</p> <p>20 \$222,172.67 indicate the net gain on the</p> <p>21 Steelworkers sale of this block of</p> <p>22 securities?</p> <p>23 A Yes.</p> <p>24 Q Look back at the second page of the</p> <p>25 second overall page of this exhibit. If you</p> | <p style="text-align: right;">124</p> <p>1 Hoffman</p> <p>2 VEECO stock listed on Exhibit 12?</p> <p>3 A Repeat the question.</p> <p>4 Q Do you have any knowledge of why the</p> <p>5 Steelworkers purchased any of the blocks of</p> <p>6 shares of VEECO stock listed on Exhibit 12?</p> <p>7 A The only knowledge I have is that the</p> <p>8 money manager, Fox, decided to do the</p> <p>9 transaction.</p> <p>10 Q That is exactly what I'm asking. Do</p> <p>11 you have any knowledge beyond that?</p> <p>12 A Not beyond that, no.</p> <p>13 Q Do you have any knowledge as to why</p> <p>14 Fox Asset Management decided to purchase</p> <p>15 those blocks of shares at that particular</p> <p>16 point in time?</p> <p>17 A No.</p> <p>18 Q Do you have any knowledge why Fox</p> <p>19 Asset Management sold these blocks of shares</p> <p>20 listed on Exhibit 12 at a particular point in</p> <p>21 time?</p> <p>22 A No direct knowledge.</p> <p>23 Q Do you have some indirect knowledge?</p> <p>24 A No, I have no indirect knowledge.</p> <p>25 Q Am I correct that you do not know what</p> |
| <p style="text-align: right;">123</p> <p>1 Hoffman</p> <p>2 can get in front of you as well Exhibit 12.</p> <p>3 A Okay.</p> <p>4 Q Your counsel has already stipulated to</p> <p>5 the accuracy of the transactions listed in</p> <p>6 Exhibit 12 so I won't make you go through</p> <p>7 that again, but I just want to confirm that</p> <p>8 the transaction listed here at the bottom of</p> <p>9 the second page of Exhibit 13, the sale of</p> <p>10 40,000 shares, is referring to the sale of</p> <p>11 the two blocks of VEECO stock listed here on</p> <p>12 the bottom of the master transaction summary</p> <p>13 that is marked as Exhibit 12.</p> <p>14 A It appears to, yes.</p> <p>15 Q You'll note that the settlement dates</p> <p>16 for both is listed as May 31, 2005?</p> <p>17 A Yes.</p> <p>18 Q Am I correct that the stock indicates</p> <p>19 that the Steelworkers lost \$353,103.80 on the</p> <p>20 sale of this block of 40,000 shares?</p> <p>21 A Correct.</p> <p>22 Q Let's continue to look at Exhibit 12</p> <p>23 for just a moment.</p> <p>24 Do you have any knowledge of why the</p> <p>25 Steelworkers made any of the purchases of</p> | <p style="text-align: right;">125</p> <p>1 Hoffman</p> <p>2 information Fox Asset Management did or did</p> <p>3 not rely on in deciding to execute these</p> <p>4 transactions?</p> <p>5 A No, I do not.</p> <p>6 Q Did you ever have any discussions with</p> <p>7 anyone else affiliated with the Steelworkers</p> <p>8 Pension Trust concerning the advisability of</p> <p>9 the Steelworkers investing in VEECO stock at</p> <p>10 any point in time between November 3, 2003</p> <p>11 and the present date?</p> <p>12 A No.</p> <p>13 Q I know you've testified that you</p> <p>14 wouldn't have discussed that directly with</p> <p>15 the money manager. I'm just asking whether</p> <p>16 you ever off-line had a discussion of that</p> <p>17 sort with anybody internally.</p> <p>18 A No.</p> <p>19 Q Look at paragraphs 45 through 56.</p> <p>20 These are allegations relating to</p> <p>21 transitional service agreement between VEECO</p> <p>22 Instruments and Emcore.</p> <p>23 A Yes.</p> <p>24 Q Are you familiar with the substance of</p> <p>25 the allegations in paragraphs 45 through 56?</p> |

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| <p style="text-align: right;">126</p> <p>1 Hoffman</p> <p>2 A What I was aware of when this document</p> <p>3 was presented to me for signature was that</p> <p>4 VEECO had purchased the TurboDisc from</p> <p>5 another company and screwed it up pretty</p> <p>6 badly by -- the original owner of TurboDisc</p> <p>7 had outsourced a lot of the manufacturing</p> <p>8 which VEECO attempted to bring in-house and</p> <p>9 really screwed it up and made an inferior</p> <p>10 product which caused them to lose customers</p> <p>11 and caused them to have claims under</p> <p>12 warranties skyrocket. That is the general</p> <p>13 knowledge that I had.</p> <p>14 Q Skim paragraphs 45 through 56, because</p> <p>15 I think you're confusing some of the</p> <p>16 allegations in the complaint.</p> <p>17 MR. STOCK: I object to his</p> <p>18 characterization of his testimony, but</p> <p>19 continue.</p> <p>20 A You want me to read all of this?</p> <p>21 Q I think if you read it quickly, it</p> <p>22 will probably bring it back to you. It's</p> <p>23 only about three or four pages I would like</p> <p>24 to you look at.</p> <p>25 A My answer stands. I was aware when I</p> | <p style="text-align: right;">128</p> <p>1 Hoffman</p> <p>2 Q Did VEECO's restatement of its</p> <p>3 financial statement for the first three</p> <p>4 quarters of 2004 reflect any correction or</p> <p>5 adjustment of any revenue that VEECO had</p> <p>6 originally recognized during the first three</p> <p>7 quarters of 2004 relating to a transitional</p> <p>8 service agreement between VEECO and Emcore?</p> <p>9 A I do not know.</p> <p>10 Q Are the Steelworkers purporting to</p> <p>11 represent persons who purchased a block of</p> <p>12 shares at some point after November 3, 2003</p> <p>13 and sold their entire block of shares prior</p> <p>14 to February 10, 2005?</p> <p>15 A I'm not sure of the dates, but we are</p> <p>16 purporting to represent those who purchased</p> <p>17 and sold shares within the class period.</p> <p>18 Q I think I can refer to this better.</p> <p>19 Are you purporting to represent only those</p> <p>20 purchasers of VEECO stock who continue to</p> <p>21 hold VEECO stock as of February 10, 2005?</p> <p>22 A I don't know. My understanding is we</p> <p>23 represent as lead plaintiff those who lost</p> <p>24 money on VEECO stock during that certain</p> <p>25 period of time. If someone is still holding</p> |
| <p style="text-align: right;">127</p> <p>1 Hoffman</p> <p>2 reviewed this answer of a general sad history</p> <p>3 of the acquisition of TurboDisc. I wasn't</p> <p>4 aware of all the details. I probably was</p> <p>5 advised of them somewhere along the line, but</p> <p>6 I just had a general recollection.</p> <p>7 Q I wasn't trying to challenge your</p> <p>8 answer.</p> <p>9 Does this refresh your recollection</p> <p>10 that you're alleging VEECO somehow improperly</p> <p>11 recognized revenue relating to a transitional</p> <p>12 service agreement between VEECO and Emcore?</p> <p>13 A Yes.</p> <p>14 Q To your knowledge, did VEECO ever</p> <p>15 disclose or correct any improper recognition</p> <p>16 of revenue relating to the transitional</p> <p>17 service agreement during the first three</p> <p>18 quarters of 2004?</p> <p>19 A No.</p> <p>20 Q In other words, that was not correct</p> <p>21 in their restatement?</p> <p>22 MR. STOCK: Object. You</p> <p>23 phrased it very differently.</p> <p>24 MR. WALLIN: I'll rephrase the</p> <p>25 question.</p> | <p style="text-align: right;">129</p> <p>1 Hoffman</p> <p>2 the stock, we don't know whether they're</p> <p>3 going to lose money or not right now.</p> <p>4 Q Who made the decision on behalf of the</p> <p>5 Steelworkers to sue VEECO?</p> <p>6 A Pardon?</p> <p>7 Q Who made the decision on behalf of the</p> <p>8 Steelworkers to sue VEECO?</p> <p>9 A I did.</p> <p>10 Q Did anyone else participate in that</p> <p>11 decision other than you?</p> <p>12 A With the Steelworkers?</p> <p>13 Q Yes.</p> <p>14 A No.</p> <p>15 Q Did you make that decision before or</p> <p>16 after retaining counsel in this action?</p> <p>17 A We had relationship with counsel in</p> <p>18 other cases, and they approached me and</p> <p>19 discussed VEECO which I was somewhat familiar</p> <p>20 with. And they proposed the class action,</p> <p>21 and I said, "Fine, I agree with that."</p> <p>22 Q What was the prior relationship with</p> <p>23 counsel you're referring to?</p> <p>24 A They represent us in several other</p> <p>25 class actions.</p> |

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| <p style="text-align: right;">130</p> <p>1 Hoffman</p> <p>2 Q Which ones?</p> <p>3 A I forget.</p> <p>4 Q Were they any of the actions listed on</p> <p>5 Exhibit 10?</p> <p>6 MR. STOCK: Take a look at</p> <p>7 Exhibit 10 to refresh your</p> <p>8 recollection.</p> <p>9 A Oh, yes.</p> <p>10 Q Which ones?</p> <p>11 A Marsh & McLennon Companies Litigation.</p> <p>12 Williams Securities Litigation. Nortel</p> <p>13 Networks, St. Paul Travelers, Pfizer, Baxter</p> <p>14 International, Scudder Mutual. We had a</p> <p>15 relationship with these attorneys for a</p> <p>16 number of years.</p> <p>17 Q Which particular individuals at Berger</p> <p>18 & Montague have you had a relationship with?</p> <p>19 A Mainly Miss Parker.</p> <p>20 Q Any other attorneys?</p> <p>21 A This gentleman and some others.</p> <p>22 MR. STOCK: Shelly S-A-V-E-T-T</p> <p>23 and Arthur Stock, who he's pointing</p> <p>24 to.</p> <p>25 Q When were you first contacted by</p> | <p style="text-align: right;">132</p> <p>1 Hoffman</p> <p>2 MR. STOCK: With respect to</p> <p>3 this case in particular?</p> <p>4 MR. WALLIN: Yes.</p> <p>5 A Well, the first contact would have</p> <p>6 come from us when we supplied them the</p> <p>7 information which is done routinely. We</p> <p>8 supply Miss Parker with information on our</p> <p>9 trades, and she will then contact me if she</p> <p>10 thinks we might have an action.</p> <p>11 Q So you provide information to</p> <p>12 Miss Parker on some sort of regular basis</p> <p>13 independent of whether there is any impending</p> <p>14 litigation?</p> <p>15 A Yes.</p> <p>16 Q How long has the Steelworkers had a</p> <p>17 relationship with Berger & Montague?</p> <p>18 A A couple of years, at least.</p> <p>19 Q How did the Steelworkers come to have</p> <p>20 a relationship with Berger & Montague?</p> <p>21 A Well, we had been the recipient of</p> <p>22 class action settlements for years. In the</p> <p>23 WorldCom Bond litigation we hired the local</p> <p>24 counsel here --</p> <p>25 THE WITNESS: What is the name?</p> |
| <p style="text-align: right;">131</p> <p>1 Hoffman</p> <p>2 counsel regarding a possible action by VEECO?</p> <p>3 A I don't remember. It was sometime</p> <p>4 during this early part of the year.</p> <p>5 Q Do you recall how soon after the</p> <p>6 February 11th press release that I showed you</p> <p>7 earlier?</p> <p>8 A How soon after they contacted me? No,</p> <p>9 I don't remember that.</p> <p>10 Q Can you approximate?</p> <p>11 A I would say several months, I would</p> <p>12 say.</p> <p>13 Q Are the Steelworkers represented by</p> <p>14 any other counsel in this action besides</p> <p>15 Berger & Montague?</p> <p>16 A In securities litigation?</p> <p>17 Q In this action.</p> <p>18 A No.</p> <p>19 Q Have you spoken to any other attorneys</p> <p>20 about a potential action against VEECO prior</p> <p>21 to speaking to Berger & Montague?</p> <p>22 A No.</p> <p>23 Q Were you contacted by counsel in the</p> <p>24 first instance or did you contact counsel in</p> <p>25 the first instance?</p> | <p style="text-align: right;">133</p> <p>1 Hoffman</p> <p>2 MR. STOCK: I don't know. It</p> <p>3 wasn't Berger & Montague.</p> <p>4 THE WITNESS: Dave Bershad. We</p> <p>5 had hired them in the WorldCom Bond</p> <p>6 litigation which didn't turn out.</p> <p>7 We're still going to collect something</p> <p>8 through the SEC, and I began thinking</p> <p>9 that we ought to have counsel who will</p> <p>10 monitor the securities litigation. I</p> <p>11 didn't know of this law firm until I</p> <p>12 asked around and I discovered them.</p> <p>13 Q How long after you were first</p> <p>14 contacted by Miss Parker concerning a</p> <p>15 potential action against VEECO did you decide</p> <p>16 to actually go forward with an action against</p> <p>17 VEECO?</p> <p>18 A Probably the same day.</p> <p>19 Q Was it during the same conversation?</p> <p>20 A Yes.</p> <p>21 Q Do you recall how long that</p> <p>22 conversation was?</p> <p>23 A Long.</p> <p>24 Q More than an hour?</p> <p>25 A No.</p> |

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|---|---|
| 134 | 136 |
| 1 Hoffman | 1 Hoffman |
| 2 Q More than a half hour? | 2 without assuming any of the costs? |
| 3 A I would say about a half hour. | 3 A It costs us nothing. |
| 4 Q To your knowledge, is anyone employed | 4 Q Have the Steelworkers been billed at |
| 5 by the Steelworkers Pension Trust ever worked | 5 all by Berger & Montague in connection with |
| 6 for Berger & Montague? | 6 this action? |
| 7 A No, not to my knowledge. | 7 A No. |
| 8 Q Or any relatives of anyone employed at | 8 MR. WALLIN: I believe that's |
| 9 Steelworkers ever work at Berger & Montague? | 9 all, Mr. Hoffman. |
| 10 A Relative of employees? | 10 THE WITNESS: Thank you. |
| 11 Q Yes. | 11 MR. STOCK: I do not have any |
| 12 A Not to my knowledge. | 12 questions. Deposition is completed. |
| 13 Q If there is a disagreement between the | 13 (Time noted: 2:00 p.m.) |
| 14 Steelworkers Pension Trust and Miss Parker | 14 |
| 15 about a strategic matter in this litigation, | 15 ----- |
| 16 are you under any obligation to do anything? | 16 RICHARD S. HOFFMAN |
| 17 A Rephrase -- say that again. | 17 Subscribed and sworn to before me |
| 18 Q If there is some disagreement between | 18 this day of 2005 |
| 19 you and your counsel concerning strategic | 19 |
| 20 matter in this litigation, are you under any | 20 ----- |
| 21 obligation to do anything? | 21 NOTARY PUBLIC |
| 22 MR. STOCK: Objection. | 22 |
| 23 Unclear. | 23 |
| 24 If you can answer, go ahead. | 24 |
| 25 THE WITNESS: Can I answer? | 25 |

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| 135 | 137 |
| 1 Hoffman | 1 |
| 2 MR. STOCK: If you can. | 2 INDEX |
| 3 A If there is any disagreement between | 3 EXHIBITS |
| 4 the Steelworkers Pension Trust and the law | 4 FOR IDENTIFICATION DESCRIPTION PAGE |
| 5 firm, we make the decision. | 5 1 A document bearing production 20 |
| 6 Q That's what I'm asking. | 6 2 VEECO Instruments' 10-K form 58 |
| 7 A In other words, there are no | 7 for fiscal year ending |
| 8 disagreements. | 8 3 A press release dated 89 |
| 9 Q Whose responsible for the cost of this | 9 February 11, 2005 filed by |
| 10 litigation on the plaintiff's side? | 10 4 VEECO Instruments 94 |
| 11 A They are (pointing), contingent fee. | 11 A reply memorandum of law by |
| 12 Q Is that contingent fee memorialized in | 12 Steelworkers Pension Trust |
| 13 any sort of written agreement? | 13 5 A brief 94 |
| 14 A No, I don't believe so. | 14 6 A press release dated 98 |
| 15 Q If this action goes forward for | 15 November 3, 2003 |
| 16 whatever reason, the Steelworkers don't | 16 7 A transcript of a conference 98 |
| 17 receive any recovery, do you have any idea | 17 call on November 3, 2003 |
| 18 whether the Steelworkers would have any | 18 8 Consolidated amended class 101 |
| 19 obligation to assume any other costs related | 19 action claim |
| 20 to the action? | 20 9 A document bearing production 104 |
| 21 A If we have no obligation to the | 21 numbers SPT 09 through SPT 10 |
| 22 attorneys in that case. | 22 10 A document bearing production 104 |
| 23 Q Essentially what I'm asking is if the | 23 numbers SPT 11 through SPT 12 |
| 24 court dismisses the action, do the | 24 11 A document bearing production 107 |
| 25 Steelworkers, are they able to walk away | 25 numbers SPT 03 through SPT 08 |
| | 26 12 A document 113 |
| | 27 13 A series of account statements 118 |
| | 28 from Fox Asset Management |
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| 2 | I N D E X (CONTINUED) |
| 3 | INFORMATION/DOCUMENTS REQUESTED |
| 4 | DESCRIPTION PAGE |
| 5 | Production of Fox Asset 52 |
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| 2 | C E R T I F I C A T E |
| 3 | I, VILMA TORRES, hereby certify that the |
| 4 | Examination Before Trial of RICHARD S. HOFFMAN was |
| 5 | held before me on the 8th day of December, 2005; |
| 6 | that said witness was duly sworn before the |
| 7 | commencement of testimony; that the testimony was |
| 8 | taken stenographically by myself and then |
| 9 | transcribed by myself; that the party was |
| 10 | represented by counsel as appears herein; |
| 11 | That the within transcript is a true |
| 12 | record of the Examination Before Trial of said |
| 13 | witness; |
| 14 | That I am not connected by blood or |
| 15 | marriage with any of the parties; that I am not |
| 16 | interested directly or indirectly in the outcome |
| 17 | of this matter; that I am not in the employ of any |
| 18 | of the counsel. |
| 19 | IN WITNESS WHEREOF, I have hereunto set my |
| 20 | hand this day of , 2005. |
| 21 | |
| 22 | ----- |
| 23 | VILMA TORRES |
| 24 | |
| 25 | |

ERRATA SHEET

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